

NOTICE PUBLICATION/REGULATIONS SUBMISSION

See instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z91-0419-01	REGULATORY ACTION NUMBER 91-0528-01E	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1991 MAY 28 PM 1:57

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING

JUN 07 1991

NOTICE

Office of Administrative Law

AGENCY

Department of Social Services

AGENCY FILE NUMBER (if any)

RDB #0191-07

FILED

in this office of the Secretary of State
of the State of California

JUN 07 1991

At 4:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John A. Kewbridge*
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED MPP	ADOPT	Sections 87800 - through Section 87924 (See attachment #1)
	AMEND	
	REPEAL	
TITLE(S) 22		

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Jim Rhoads, Assistant Chief, Regulations Development Bureau

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Lonnie M. Carlson

DATE

5-24-91

TYPED NAME AND TITLE OF SIGNATORY

Lonnie M. Carlson, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

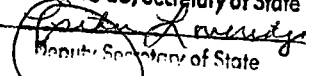
OF

APPROVAL

FILED
In this office of the Secretary of State
of the State of California

JUN 07 1991


At 436 o'clock P.M.

MARCH FONG EU, Secretary of State
By  Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: SOCIAL SERVICES

OAL File No: 91-0528-01


JOHN D. SMITH
Deputy Director

06/07/91

Attachment #1

Sections Adopted

87800	87830	87864	87890
87801	87831	87864.1	87891
87805	87832	87865	87893
87806	87833	87865.1	87894
87807	87834	87866	87895
87808	87835	87868	87896
87809	87836	87868.1	87896.1
87810	87840	87868.2	87897
87812	87841	87868.3	87898
87817	87842	87868.4	87899
87818	87843	87870	87900
87819	87844	87872	87901
87819.1	87845	87873	87902
87820	87852	87874	87903
87821	87853	87876	87904
87905	87822	87854	87877
87906	87907	87908	87909
87910	87911	87912	87913
87914	87915	87916	87918
87919	87920	87920.1	87921
87922	87923	87924	87823
87855	87878	87824	87858
87879	87825	87859	87886
87826	87860	87887	87827
87861	87888	87828	87862
87889	87829	87863	87889.1


DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Adopt Chapter 8.5 to read:

RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL

Adopt Article 1 to read:

Article 1. LICENSE

Adopt Section 87800 to read:

87800 GENERAL

87800

The provisions of Chapters 1 and 8, Division 6 of Title 22 of the California Code of Regulations shall not apply to the provisions of Chapter 8.5, Division 6, Residential Care Facilities For the Chronically Ill.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Article 2 to read:

ARTICLE 2. DEFINITIONS

Adopt Section 87801 to read:

87801 DEFINITIONS

87801

(a) The following definitions shall apply wherever the terms are used throughout Division 6, Chapter 8.5, except where specifically noted otherwise.

- (1) "Activities of daily living" mean various chores that must be completed by or for a person on a daily basis to meet his/her personal needs.
 - (A) Such chores shall include but not be limited to housework, meal preparation, laundry of clothes/linens and other washable items, taking medication, money management, transportation for personal or medical appointments, communicating with others either through telephone or in writing, dressing, eating, toileting, bathing, grooming, and ambulation.
- (2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
- (3) "Adult" means a person who is 18 years of age or older.
- (4) "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without the assistance of any other person and without the use of any mechanical aid in case of an emergency.
- (5) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has made application for an initial or renewal Residential Care Facility for the Chronically Ill license.
- (6) "Appropriately Skilled Professional" means an individual who is licensed in California to perform the necessary medical procedures prescribed by a physician. This includes, but is not limited to, the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or the facility.
- (7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any resident. Such person or entity includes, but is not limited to a conservator, a public placement agency, or the person who has durable power of attorney for health care for the resident.

- (b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services specified in Section 87860 required by applicable laws and regulations, which are to be provided by the licensee in order to obtain and maintain a license to operate a Residential Care Facility for the Chronically Ill.
- (c) (1) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (2) "Care and Supervision" means any one or more of the following activities provided or promised to be provided in the future by a person or facility to meet the needs of the residents:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication.
 - (C) Central storing and/or distribution of medications.
 - (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of residents.
 - (F) Arrangement and managing of resident schedules and activities.
 - (G) Maintenance and/or management of resident cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Subsection (b)(2) above.

- (3) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.
- (4) "Chronic, Life-Threatening Illness" means either or both of the following:
- (A) A long-term illness where the likelihood of death is high unless the course of the disease is interrupted.
 - (B) A long-term illness with a potentially fatal outcome, where the end point of clinical intervention is survival.
- (5) "Close Friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (6) "Completed Application" means:
- (A) The applicant has submitted and the Department has received all required materials including: an approved fire clearance from the appropriate fire authority, a criminal record clearance on the applicant and any other individuals subject to such clearance.
 - (B) The Department has completed a site visit to the facility.
- (7) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.
- (8) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.
- (d) (1) "Deficiency" means any failure to comply with any provision of the Residential Care Facilities for Persons with Chronic, Life-Threatening Illness statute (Health and Safety Code, Section 1568.01, et seq.) and/or regulations adopted by the Department pursuant to this statute.

- (2) "Department" means the California State Department of Social Services.
- (3) "Developmental Disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual, as specified in Welfare and Institutions Code Section 4512(a).

Persons who are developmentally disabled shall include persons who have been diagnosed as having mental retardation, cerebral palsy, epilepsy, autism, or who have handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

- (4) "Direct Care Attendant" means an individual, employed by a Home Health Agency, who renders direct care services to a resident.
- (5) "Direct Care Staff" means those individuals employed by the facility and who provide direct care services to the residents including, but not limited to, assistance with activities of daily living.
- (6) "Director" means the Director of the California State Department of Social Services.
- (7) "Documentation" means written information required to be completed and maintained at the facility by the licensee.
- (8) "Do Not Resuscitate Directive" means the written directions of the resident or the person who holds Durable Power of Attorney for Health Care for the resident to the resident's primary care physician to withhold emergency resuscitation should the resident stop breathing and to request the issuance of a Do Not Resuscitate Order by the physician.
- (9) "Do Not Resuscitate Order" means the order of the resident's primary care physician to alert appropriately skilled professionals that the resident does not want measures to be taken to resuscitate him/her and to withhold emergency resuscitation should the resident stop breathing.
- (10) "Durable Power of Attorney for Health Care" means a power given to a person to act on behalf of another person in the event that the resident becomes unable to give informed consent to health care as specified in California Civil Code, Sections 2430 et seq.
- (e) (1) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department.
- (2) "Exception" means a written authorization issued by the Department to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific resident(s) or staff person(s). Exceptions are granted for particular resident(s) or staff person(s) and are not transferable or applicable to other residents, staff persons, facilities or licensees.

- (3) "Exemption" means an exception to the requirements of Health and Safety Code Section 1568.09 and applicable regulations. Exemptions are not transferable.
- (f) (Reserved)
- (g) (Reserved)
- (h) (1) "Hazardous Waste" means material that is known to transmit or could be suspected of transmitting infectious diseases as determined by the Department of Health Services, Health and Safety Code Sections 25117 and 25020.5.
- (i) (1) "Individual Services Plan" means the documentation of services required by the resident as specified in Section 87896(e).
- (2) "Individual Services Team" means those individuals who are involved in the planning and/or delivery of services or care to the resident as specified in Section 87896(b).
- (3) "Instruct" means to furnish an individual with knowledge or to teach, give orders, or directions regarding a process or procedure.
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "License" means written authorization to operate a Residential Care Facility for the Chronically Ill and to provide care and supervision. The license is not transferable.
- (2) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed Residential Care Facility for the Chronically Ill.
- (m) "Mental Disorder" means any of the disorders which render a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.
- (n) (1) "Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. A person is not deemed nonambulatory solely because he/she is deaf, blind or prefers to use a mechanical aid.

- (2) "Nutritionist" means a person who has a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.

(o) (Reserved)

- (p) (1) "Physician" means a person licensed as a physician by the California Medical Board or by the California Board of Osteopathic Examiners.

- (2) "Provision" or "Provide" means the licensee shall make available any service, personnel, or meet other requirements, directly or present evidence to the Department that the requirement has been met by some other means.

- (3) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months.

- (4) "Psychosocial Support Services" means services provided to the resident to enable him/her to accept or come to terms with his/her chronic illness and other related conditions.

(q) (Reserved)

- (r) (1) "Registered Nurse Case Manager" means the registered nurse who is responsible for coordinating the delivery of services as identified in the Individual Services Plan.

- (2) "Relative" means the resident's spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

- (3) "Resident" means an adult who is residing and receiving care and supervision in a Residential Care Facility for the Chronically Ill.

- (4) "Residential Care Facility for the Chronically Ill (RCF-CI)" means a housing arrangement with a maximum capacity of 25 residents that provides a range of services to adults who have chronic, life-threatening illness(es).

- (s) (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the residents of Residential Care Facilities for the Chronically Ill.

- (2) "Shall" means mandatory.

- (3) "Significant Other" means a person, including a person of the same sex, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Chronically Ill. The partnership involves two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.
- (4) "Social Worker" means a person who has a graduate degree from an accredited school of social work or social welfare.
- (5) "SSI/SSP" means the Supplemental Security Income/State Supplementary Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.
- (6) "Substantial Compliance" means the absence of any serious deficiencies.
- (7) "Substantiated Complaint" means a complaint which has been investigated by the Department, and as a result, a violation of regulations or statute has been found.
- (8) "Supervision" means to oversee or direct the activity of a subordinate but does not necessarily require the immediate presence of the supervisor.
- (9) "Support Staff" means those individuals working in the facility, in an ancillary position, including but not limited to, housekeeper, cook, or maintenance personnel.
- (t) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.
- (u) (1) "Unlicensed Residential Care Facility for the Chronically Ill" means a facility is providing or has promised to provide care and supervision, as defined in Subsection (c) (2) above. Examples of unlicensed facilities shall include, but not be limited to, any one of the following circumstances:
 - (A) The facility accepts or retains residents who demonstrate the need for care or supervision, without being licensed as a Residential Care Facility for the Chronically Ill. Such unlicensed facilities shall include, but not be limited to:
 - (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same residents or different residents with similar needs.

- (2) A facility where a change of ownership has occurred and the same residents are retained and the new owner has not filed an application for license.
 - (3) A licensed facility which moves to a new location without filing a new application for license.
 - (4) An unlicensed facility which advertises as providing care and/or supervision.
 - (5) A facility with residents requiring care and/or supervision, even though the facility is providing board and room only, or board only, or room only.
 - (6) A facility, where it is apparent that care and/or supervision are being provided by virtue of the resident's needs being met.
- (2) "Urgent Need" means a situation where prohibiting the operation of the facility would be detrimental to the residents' physical health, mental health, safety, or welfare. Circumstances constituting urgent need include, but are not limited to, the following:
- (A) A change in facility location when residents are in need of services from the same operator at the new location.
 - (B) A change of facility ownership when residents are in need of services from a new operator.
- (v) "Voluntary" means resulting from free will.
- (w) (1) "Waiver" means a nontransferable written authorization by the Department to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.
- (2) "Wound" means a surgical incision, laceration of the skin, Stage I or II decubitus ulcers, skin eruptions or skin lesions.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.01 and 1568.072, Health and Safety Code.

Adopt Section 87805 to read:

87805 LICENSE REQUIRED

87805

- (a) Unless a facility is exempt from licensure as specified in Section 87807, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a Residential Care Facility for the Chronically Ill, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the Department.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.03, Health and Safety Code.

Adopt Section 87806 to read:

87806 OPERATION WITHOUT A LICENSE

87806

- (a) An unlicensed facility, as defined in Section 87801 (u)(1), is in violation of Section 1568.03 (a) of the Health and Safety Code unless exempted from licensure pursuant to Section 87807.
- (b) If the facility is alleged to be operating without a license in violation of Section 1568.03 of the Health and Safety Code, the Department shall conduct a site visit and evaluation of the facility to determine if it is operating without a license.
- (c) If the facility is operating without a license, the Department shall issue a notice of operation in violation of law.
- (d) The Department shall have the authority to assess an immediate penalty to unlicensed operations as specified in Section 87858.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03, 1568.072 and 1568.0821, Health and Safety Code.

Adopt Section 87807 to read:

87807 EXEMPTION FROM LICENSURE

87807

(a) The Residential Care Facility for the Chronically Ill regulations contained in this chapter shall not apply to any of the following:

- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
- (2) Any clinic, as defined by Section 1200 of the Health and Safety Code.
- (3) Any house, institution, hotel, share housing project, or other similar place that supplies board and room only, or board only, which provides no element of care and supervision and no resident requires any element of care and supervision or protective supervision.
- (4) Any arrangement for the receiving of care and supervision provided to one person with a chronic, life-threatening illness by a relative, guardian or conservator.
- (5) Any arrangement for the receiving of care and supervision provided to one person with a chronic, life-threatening illness by his/her significant other.
- (6) Any arrangement for the receiving of care and supervision provided to one person and his/her spouse or significant other with a chronic, life-threatening illnesses by his/her close friend.
- (7) Any arrangement for the receiving of care and supervision of persons with chronic, life-threatening illness from only one family as respite for the relative, conservator, significant other, or a close friend, if the arrangement is not for financial profit and does not exceed 48 hours per month.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87808 to read:

87808 LICENSING OF INTEGRAL FACILITIES

87808

- (a) Upon written application from the licensee, the Department shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses, provided that all of the following requirements are met:
- (1) Separate buildings or portions of the facility are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations, as determined by the Department.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87809 to read:

87809 PROHIBITION OF DUAL LICENSURE

87809

- (a) An applicant/licensee shall not be permitted to obtain or hold any day care, residential, or health care facility license in addition to the Residential Care Facility for the Chronically Ill license in the same structure.
- (b) Any licensee applying for a Residential Care Facility for the Chronically Ill license who holds any license as specified in (a) above shall surrender the existing license, prior to approval of a Residential Care Facility for the Chronically Ill license.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87810 to read:

87810 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS

87810

- (a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license.
 - (1) Persons under the age of 18 years shall be prohibited from residing in the facility.
- (b) Facilities or rooms restricted to ambulatory residents only shall not be used by nonambulatory residents.
 - (1) Residents whose status becomes nonambulatory shall not use rooms or areas restricted to ambulatory residents.
 - (2) The Department shall have the authority to require licensees to demonstrate that residents are ambulatory who use rooms restricted to ambulatory residents.
- (c) The facility capacity shall not exceed 25 residents.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072, 1568.083 and 13143, Health and Safety Code.

Adopt Section 87812 to read:

87812 FALSE CLAIMS

87812

- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Article 3 to read:

Article 3. APPLICATION PROCEDURES

Adopt Section 87817 to read:

87817 APPLICANT QUALIFICATIONS

87817

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, handicap, marital status or sexual orientation.
- (b) Prior to filing an application, the applicant shall attend a two-day orientation program provided by the Department.
 - (1) The orientation shall cover, but not be limited to, the following areas:
 - (A) Completion of the application for license.
 - (B) Scope of responsibility for operation of a Residential Care Facility for the Chronically Ill.
 - (C) Information pertaining to community services and resources.
 - (D) Applicable laws and regulations.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.06 and 1568.072, Health and Safety Code.

APPENDIX C

to

Subchapter 17

Form DS 1897B

IN-HOME RESPITE COST STATEMENT

Page 1

DS 1897B (7/90)

1. Reporting Period _____, 19__ through _____, 19__

2. Vendor Name _____

3. Vendor Number _____

Service Code _____

Subcode _____

4. Business Address _____

Street _____

City _____

State _____

Zip _____

5. Mailing Address _____

Street _____

City _____

State _____

Zip _____

6. Management Organization Name (if applicable) _____

7. Service Director _____

Telephone Number _____

PROGRAM INFORMATION

8. Name of Vendoring Regional Center: _____

9. Name of User Regional Centers: _____

Temporary payment rate applicants only

10. Date service began or will begin: _____, 19__

♦ ♦ ♦ TEMPORARY PAYMENT RATE APPLICANTS STOP HERE AND SIGN LINE 19 ♦ ♦ ♦

♦ ♦ ♦ PERMANENT PAYMENT RATE APPLICANTS COMPLETE REMAINDER OF PAGE ♦ ♦ ♦

11. Direct Service Hours _____

VENDOR COSTS

12. Salaries and Wages _____

13. Fringe Benefits _____

14. Operating Expenses (from page 2, line 17) _____

15. Management Organization Costs (from page 3, line 2) _____

16. TOTAL COST \$ _____

17. VENDOR INCOME (from page 3, line 4) (_____)

18. NET COST \$ _____

19. I hereby certify to the best of my knowledge and belief that this cost statement is true and correct, and complies with the requirements of Title 17, Sections 58020 through 58038.

Signature_____
Date

Vendor Name: _____

Vendor Number: _____

Service Code: _____ Subcode: _____

OPERATING EXPENSE SHEET

1. Accounting fees _____
2. Bank service fees _____
3. Communication costs _____
4. Contractual/consultant fees _____
5. Depreciation costs _____
6. General expenses _____
7. Insurance costs _____
8. Janitorial fees _____
9. Legal fees _____
10. Maintenance costs _____
11. Office supplies _____
12. Rental and lease costs _____
13. Staff training costs _____
14. Staff travel costs _____
15. Utility costs _____
16. Vehicle depreciation _____
17. **TOTAL OPERATING COSTS** (to page 1, line 14) \$ _____

Vendor Name: _____

Vendor Number: _____

Service Code: _____ Subcode: _____

MANAGEMENT ORGANIZATION COST

1. Total Cost \$ _____

2. Amount allocated to this service \$ _____
(to page 1, line 15)3. Method for allocating cost (*check one*)☐ Hours of attendance☐ Total cost for each service**VENDOR INCOME**Name of Vendor
Income SourceDuration
of FundingTotal
Income

_____	_____	\$ _____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Total (to page 1, line 17) \$ _____

INSTRUCTIONS

Form DS 1897B (7/90) - Page 1

<u>Line</u>	<u>Reference</u>
1. Enter the reporting period of this cost statement.	58031
2. Enter vendor name.	58033 (a)(1)
3. Enter vendor number, service code, and subcode.	58033 (a)(1)
4. Enter the address where the vendored service is located.	58033 (a)(2)
5. Enter the mailing address for the vendored service.	58033 (a)(2)
6. Enter the name of the management organization, if the service is affiliated with a management organization.	58033 (a)(1)
7. Enter the name of the service director and telephone number for the vendored service.	58033 (a)(3) 58033 (a)(2)
8. Enter the name of the vendoring regional center.	58033 (a)(4)
9. Excluding the vendoring regional center, enter the names of all regional centers for which you provide services.	58033 (a)(4)
10. If you are applying for a temporary payment rate, enter the date you began or intend to begin providing services.	58033 (c)(1)

VENDORS REQUESTING A TEMPORARY PAYMENT RATE, GO TO LINE 19

VENDORS REQUESTING A PERMANENT PAYMENT RATE, COMPLETE LINES 11 THROUGH 19

11. Enter the actual number of direct service hours provided to clients.	58033 (b)
12. Enter the total gross salaries and wages, including overtime, for the vendored service.	58034 (a)(1)
13. Enter the cost of allowable fringe benefits associated with the salaries and wages on line 12 above.	58034 (a)(2)
14. Enter the total allowable operating expenses from page 2, line 17.	58034 (a)(3)
15. Enter the total allowable management organization costs from page 3, line 2.	58034 (a)(4)
16. Enter the total of lines 12, 13, 14, and 15.	
17. Enter the total allowable vendor income from page 3, line 4.	58038
18. Subtract line 17 from line 16.	
19. Sign and date Statement of Certification.	58030 (a)

TEMPORARY PAYMENT RATE VENDORS: INCLUDE WITH THE SIGNED COST STATEMENT, A COPY OF THE SERVICE DESIGN AND VENDOR APPROVAL LETTER.

58033 (a)(5)
58033 (c)(2)

PERMANENT PAYMENT RATE VENDORS: INCLUDE WITH THE SIGNED COST STATEMENT, A COPY OF THE SERVICE DESIGN.

58033 (c)(2)

INSTRUCTIONS

Page 2 - OPERATING EXPENSE DETAIL SHEET

<u>Line</u>	<u>Reference</u>
1. Enter the cost for accounting fees.	58034 (a)(3)(A)
2. Enter the cost for bank service fee.	58034 (a)(3)(B)
3. Enter the communication costs including telephone, telegraph, teletype, centrex, telepak, postage, message service, facsimiles and TDD.	58034 (a)(3)(C)
4. Enter the cost for contractual/consultant fees that do not have a specific cost category.	58034 (a)(3)(D)
5. Enter the depreciation cost excluding vehicle depreciation which is reported on line 16.	58034 (a)(3)(E)
6. Enter the cost for general expenses. See section referenced for items allowable under general expense.	58034 (a)(3)(F)
7. Enter the insurance costs.	58034 (a)(3)(G)
8. Enter the janitorial costs.	58034 (a)(3)(H)
9. Enter the cost for legal fees.	58034 (a)(3)(I)
10. Enter the maintenance costs. See section referenced for items allowable under maintenance costs.	58034 (a)(3)(J)
11. Enter the office supplies costs. See section referenced for allowable office supplies costs.	58034 (a)(3)(K)
12. Enter the rental and lease costs. See section referenced for items allowable under rental and lease costs.	58034 (a)(3)(L)
13. Enter the staff training costs.	58034 (a)(3)(M)
14. Enter the costs for staff travel.	58034 (a)(3)(N)
15. Enter the utilities costs.	58034 (a)(3)(O)
16. Enter the vehicle depreciation costs. See referenced section regarding depreciation methodology and useful life.	58034 (a)(3)(P)
17. Enter total of lines 1 through 16 here and on page 1, line 14.	

INSTRUCTIONS

Page 3 - MANAGEMENT ORGANIZATION COST AND VENDOR INCOME DETAIL SHEET

MANAGEMENT ORGANIZATION COST

<u>Line</u>	<u>Reference</u>
1. Enter the total allowed cost of the management organization.	58034 (a)(4)(C)2.
2. Enter the amount of management organization costs allocated to this service here and on page 1, line 15.	58034 (a)(4)(C)
3. Check the method of allocation used.	58034 (a)(4)(C)1.a. 58034 (a)(4)(C)1.b.

VENDOR INCOME

<u>Line</u>	<u>Reference</u>
4. Enter name of each source of vendor income, duration of funding and total income.	58038 (a)
5. Enter the total of all vendor income here and on page 1, line 17.	58038 (a)

Adopt Section 87818 to read:

87818 APPLICATION FOR LICENSE

87818

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the Department a verified application on forms specified below and furnished by the Department:
- (1) Application -- LIC 200 (9/87)
 - (2) Applicant Information -- LIC 215 (8/87)
 - (3) Designation of Administrative Responsibility -- LIC 308 (3/87)
 - (4) Administrative Organization -- LIC 309 (8/86)
 - (5) Affidavit Regarding Client Cash Resources -- LIC 400 (9/86)
 - (6) Estimated Operating Budget -- LIC 401 (11/82)
 - (7) Surety Bond -- LIC 402 (1/87)
 - (8) Financial Statement -- LIC 403 (3/83)
 - (9) Financial Information Release and Verification -- LIC 404 (10/86)
 - (10) Personnel Report -- LIC 500 (10/86)
 - (11) Personnel Record -- LIC 501 (8/87)
 - (12) Health Screening Report - Facility Personnel -- LIC 503 (9/86)
 - (13) Disaster and Mass Casualty Plan -- LIC 610 (10/88)
- (b) The applicant/licensee shall cooperate with the Department in providing verification and/or documentation as requested by the Department.
- (c) The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of facility.
 - (2) Name, and residence and mailing addresses of applicant.
 - (A) If the applicant is a partnership, the name, and principal business address of each partner.

87818 APPLICATION FOR LICENSE (Continued)

- (B) If the applicant is a corporation or association, the name, title and principal business address of each officer and member of the governing board.
- (C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.
- (D) If the applicant is a corporation, a copy of the articles of incorporation and bylaws.
- (E) If the applicant is an association, a copy of the bylaws.
- (3) Name and address of owner of facility premises, if applicant is leasing or renting.
- (4) The category of facility to be operated.
- (5) Capacity requested.
- (6) Age range, sex and target group of persons to be served.
- (7) Name of administrator.
- (8) Information regarding the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any residential care clinic or facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500) of the Health and Safety Code.
- (9) Information regarding any revocation or disciplinary action taken or in the process of being taken against a license held or previously held by the entities as specified in Subsection (8) above.
- (10) Facility Transfer Agreement with an acute care hospital for the care of residents who require a higher level of care.
- (11) Copy of contract with a hazardous waste disposal company for disposal of hazardous materials.
- (12) Copy of contract with a Nutritionist.
- (13) Copy of contract with a home health agency for case management of the residents and other services as needed.

- (14) Copy of contract with a psychologist, psychiatrist, social worker, or other appropriately skilled professional to provide psychosocial support services to the residents, unless the facility will be staffed to provide such services.
- (15) Copy of contract with an individual or agency which provides substance abuse counseling, unless the facility will be staffed to provide such services.
- (16) Specification of the services to be provided to the targeted population.
- (17) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.
- (18) A plan of operation as specified in Section 87822.
- (19) Fingerprint cards as specified in Section 87819 (b).
- (20) The bonding affidavit specified in Section 87825.
- (21) A health screening report on the applicant.
- (22) The fee for processing the application or renewal as determined by the requested capacity.
- (23) Such other information as may be required by the Department.
- (d) The application shall be signed by the applicant(s).
 - (1) If the applicant is a partnership, the application shall be signed by each general partner.
 - (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.
- (e) The application shall be filed with the licensing office of the Department which serves the geographical area in which the facility is located.
- (f) For licensees of existing licensed facilities, the Department shall not require the licensee to complete the entire application process when he/she applies for a new license due to a change in the facility location.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.04 and 1568.072, Health and Safety Code.

Adopt Section 87819 to read:

87819

87819 CRIMINAL RECORD CLEARANCE

- (a) The Department shall conduct a criminal record review of all the persons listed in Subsection (b) below and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility based upon the results of such review.
- (1) A criminal record clearance shall be received by the Department on the applicant, administrator and all adults, other than residents, residing in the facility, prior to issuing a license.
 - (2) All persons subject to criminal record review shall, prior to employment, residence or initial presence in the facility be fingerprinted and sign a statement regarding prior criminal convictions, as specified in Section 87865(j).
 - (3) The licensee shall submit completed fingerprint cards to the Department not later than four calendar days following a person's employment, residence, or initial presence in the facility.
- (b) The following persons and any other adults specified in Health and Safety Code Section 1568.09 shall be required to be fingerprinted and comply with applicable criminal records requirements:
- (1) The applicant for the license.
 - (A) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.
 - (2) Adults responsible for administration or direct supervision of staff.
 - (3) Any person, other than a resident, residing in the facility.

- (4) Any facility personnel who provides resident assistance in dressing, grooming, bathing, or personal hygiene.
- (5) Any staff person or employee who has frequent and routine contact with the residents.
- (c) The following persons shall not be required to meet the fingerprint requirement:

 - (1) Facility staff and employees who are under the direct on-site supervision of another staff and who will not provide direct care and supervision to the residents and who will only have occasional or intermittent contact with residents.
 - (2) A facility volunteer who is not used to replace or supplement staff in providing direct care and supervision of residents.
 - (3) A facility volunteer who provides direct care and supervision if he/she is a resident's spouse, significant other, friend or family member and provides direct care and supervision to that resident only at the request of the resident.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.09, Health and Safety Code.

Adopt Section 87819.1 to read:

87819.1 EXEMPTION OF CRIMINAL RECORD

87819.1

- (a) The Department shall notify the licensee or applicant if the criminal record transcript discloses that the persons specified in Section 87819 (b) have been convicted of a crime, other than a minor traffic violation, or discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime, other than a minor traffic violation for which the fine was \$50 or less, before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code, after April 4, 1984.
- (b) The licensee shall, upon notification of the conviction and directive by the Department, act immediately to either (1) remove the person from the facility, or bar the person from entering the facility; or (2) seek an exemption. Pursuant to Health and Safety Code Section 1568.09, the Department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

HANDBOOK BEGINS HERE

- (1) Section 1568.09(c) of the Health and Safety Code provides in part:

...If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (e).

HANDBOOK ENDS HERE

- (c) The Department shall take the following actions if a criminal record exemption is not or cannot be granted:
 - (1) For initial applicants, denial of the application.
 - (2) For current licensees, denial of the renewal application or institution of other legal remedies, including but not limited to revocation of the license.
 - (3) For current or prospective employees, denial of the application or revocation of the license if the person continues to provide services and/or reside in the facility.
 - (4) For persons residing in the facility, including spouses of the applicant, licensee, or employee, denial of the application or revocation of the license, if the person continues to provide services and/or reside at the facility.

HANDBOOK BEGINS HERE(2) Section 243.4 of the Penal Code provides:

- (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three or four years.
- (b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disable or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three or four years.
- (c) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. Such an act is punishable by imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.
- (d) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or both. As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

- (e) As used in subdivisions (a), (b), and (c), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.
- (f) As used in this section, the following terms have the following meanings:
- (1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.
 - (2) "Sexual battery" does not include the crimes defined in Section 261 or 289.
 - (3) "Seriously disabled" means a person with severe physical or sensory disabilities.
 - (4) "Medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.
 - (5) "Institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.
- (g) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(3) Section 273a of the Penal Code provides:

- (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully cause or permits the person or health of such child to be injured, or willfully cause or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.
- (2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(4) Section 273d of the Penal Code provides in part:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4, or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

(5) Section 368 (a) and (b) of the Penal Code provides:

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

(6) Section 1568.09(e) of the Health and Safety Code provides in part:

If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the persons' employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

HANDBOOK ENDS HERE

87819.1 EXEMPTION OF CRIMINAL RECORD (Continued)

- (d) The applicant or the licensee may request that the Director consider an exemption on behalf of the convicted person, unless the exemption is prohibited in Health and Safety Code Section 1568.09.
- (e) If the Director grants an exemption, the Department shall have the authority to approve a facility license, or a person's employment, residence, or presence in the facility.
- (1) The following factors shall be considered as evidence of good character and rehabilitation in determining whether an exemption should be granted:
- (A) The nature of the crime.
 - (B) Period of time since the crime was committed and number of offenses.
 - (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (D) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (E) Granting by the Governor of a full and unconditional pardon.
 - (F) Character references.
 - (G) A certificate of rehabilitation from a superior court.
- (f) The reasons for any exemption granted shall be in writing and kept by the Department.

HANDBOOK BEGINS HERE

- (g) Section 1568.09(e) of the Health and Safety Code provides in part:

No exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Sections 220, 243.4, or 264.1 or paragraph (1) of Section 273a, Sections 273d, 288, or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

- (h) Section 667.5(c) of the Penal Code states:

- (c) For the purpose of this section, "violent felony" shall mean any of the following:

87819.1 EXEMPTION OF THE CRIMINAL RECORD (Continued)

1. Murder or voluntary manslaughter.
2. Mayhem.
3. Rape as defined in subdivision (2) of Section 261.
4. Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
5. Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim of another person.
6. Lewd acts on a child under 14 as defined in Section 288.
7. Any felony punishable by death or imprisonment in the state prison for life.
8. Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5 or 12022.55.
9. Any robbery perpetrated in an inhabited dwelling house or trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the robbery.
10. Arson, in violation of subdivision (a) of Section 451.
11. The offense defined in subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
12. Attempted murder.

HANDBOOK ENDS HERE

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.09, Health and Safety Code.

Adopt Section 87820 to read:

87820 FIRE CLEARANCE

87820

- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.
- (1) The Department shall maintain a copy of the request and the fire clearance report in the facility file.
- (b) The applicant shall notify the Department if the facility plans to admit either of the following categories of residents, so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such residents:
- (1) Persons 65 years of age and over.
- (2) Persons who are nonambulatory, as defined in Section 87801(n)(1).

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 13143, Health and Safety Code.

Adopt Section 87821 to read:

87821 WATER SUPPLY CLEARANCE

87821

(a) All facilities where water for human consumption is from a private source shall meet the following requirements:

- (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.
- (2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as necessary to ensure the safety of the residents, but no less frequently than specified in the following table:

<u>LICENSED CAPACITY</u>	<u>ANALYSIS REQUIRED</u>	<u>PERIODIC SUBSEQUENT ANALYSIS</u>
<u>6 or fewer</u>	<u>Initial Licensing</u>	<u>Not required unless evidence supports the need for such analysis to protect residents.</u>
<u>7 through 15</u>	<u>Initial Licensing</u>	<u>Annually</u>
<u>16 through 25</u>	<u>Initial Licensing</u>	<u>Semiannually</u>

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87822 to read:

87822

87822 PLAN OF OPERATION

(a) Each licensee shall maintain on file a current, written plan of operation.

(b) The plan and related materials shall contain the following:

- (1) Statement of purposes, and program methods and goals.
- (2) Statement of admission policies and procedures regarding acceptance of residents.
- (3) A copy of the admission agreement.
- (4) A copy of the planned facility's house rules.
- (5) Administrative organization, if applicable.
- (6) Staffing plan, qualifications and duties.
- (7) Plan for inservice training and continuing educational training of staff.
- (8) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and designation of the rooms to be used for nonambulatory residents, if any.
- (9) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools and other bodies of water, gardens, recreation areas and other space used by the residents.
 - (A) The sketch shall include the dimensions of all areas which will be used by the residents.
- (10) A sample menu for one calendar week indicating the time of day that meals and snacks are to be served.
- (11) Transportation arrangements for residents who do not have independent arrangements for medical, dental appointments and other appointments for professional services as required by this chapter.
- (12) Rate setting policy including, but not limited to, policy on refunds.

- (13) A statement whether or not the licensee will handle the residents' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Section 87826.
- (14) Consultant and community resources to be utilized by the facility as part of its program.
- (15) The facility's policy regarding visiting hours, including the conditions under which a visit may be prohibited.
- (16) The facility's policy regarding the resident's use of the telephone and receiving written communication.
- (17) The facility's policy regarding the designated smoking area.
- (18) The facility's policy governing the use of alcohol and prohibition of illegal drug use.
- (19) Plan for ensuring that the provision of conservatorship, Durable Power of Attorney for Health Care and/or "DO NOT Resuscitate Order" are carried out as stipulated by the resident.
- (20) The facility's plan for the internal handling of hazardous waste.
- (c) The plan of operation shall include the name, address, telephone number, qualifications, licenses and credentials of the persons or agencies who will provide the following services for the residents, if not provided by the facility:
 - (1) Counseling regarding chronic, life-threatening illness, current information on treatment of the illness, and the possible effects of the illness on the resident's physical and/or mental health.
 - (2) Psychosocial support services.
 - (3) Death and dying counseling which must focus, at least in part, on the grieving process.
 - (4) Consultation on housing, health benefits, financial support, community-based and county services system.
 - (5) Home health care services.
 - (6) Alternative language services for residents who do not speak English, if not provided by the facility.
 - (7) Culturally appropriate services.

- (8) Assistance for residents who have physical disabilities, including but not limited to hearing and motor impairments.
- (d) Any changes in the plan of operation which affect the services to residents shall be subject to Department approval and shall be reported.
- (e) The facility shall operate in accordance with the terms specified in the plan of operation.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87823 to read:

87823

87823 DISASTER AND MASS CASUALTY PLAN

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the Department and shall include:
 - (1) Designation of administrative authority and staff assignments.
 - (2) Contingency plans for action in case of fires, floods, and earthquakes, including, but not limited to, the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for residents.
 - (D) Arrangements for supervision of residents during evacuation and/or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies, including, but not limited to, the fire department, law enforcement agencies, and civil defense and other disaster authorities.
- (c) The licensee shall instruct all residents, age and abilities permitting, all staff, and/or members of the household in their duties and responsibilities under the plan.
- (d) Disaster drills shall be conducted at least every six months.
 - (1) Completion of such drills shall not require travel away from the facility grounds or contact with local disaster agencies.
 - (2) The drills shall be documented and the documentation maintained in the facility for at least one year.
 - (3) Residents who are too ill to participate in the drills shall be excluded.

87823 DISASTER AND MASS CASUALTY PLAN (Continued)

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87824 to read:

87824

87824 WAIVERS AND EXCEPTIONS

- (a) Unless prior written approval is granted by the Department, as specified in (b) below, all licensees shall maintain continuous compliance with licensing regulations.
- (b) The Department shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conducting of experimental or demonstration projects under the following circumstances:
 - (1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any facility resident.
 - (2) The applicant or licensee shall submit to the Department a written request for a waiver or exception, together with substantiating evidence supporting the request.
 - (3) The Department shall provide written approval or denial of the request.
- (c) Within 30 days of receipt of a request for a waiver or an exception, the Department shall notify the applicant or licensee in writing of one of the following:
 - (1) The request with substantiating evidence has been received and accepted for consideration.
 - (2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to comply within the time specified shall result in denial of the request.
- (d) Within 30 days of notification of an acceptable request for a waiver or exception, the Department shall notify the applicant or licensee in writing whether the request has been approved or denied.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 15376, Government Code and Section 1568.072, Health and Safety Code.

Adopt Section 87825 to read:

87825

87825 BONDING

- (a) The licensee shall submit an affidavit, on a form (Surety Bond -- LIC 402 (1/87) provided by the Department, stating whether he/she safeguards or will safeguard cash resources of residents and the maximum amount of cash resources to be safeguarded for all residents or each resident in any month.
- (b) All licensees who are entrusted to care for and control residents' cash resources shall file or have on file with the Department, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

<u>AMOUNT SAFEGUARDED PER MONTH</u>	<u>BOND REQUIRED</u>
<u>\$750 or less</u>	<u>\$1,000</u>
<u>\$751 to \$1,500</u>	<u>\$2,000</u>
<u>\$1,501 to \$2,500</u>	<u>\$3,000</u>

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the Department prior to the licensee safeguarding amounts of residents' cash resources in excess of the current bond.
- (e) Whenever the Department determines that the amount of the bond is insufficient to provide necessary protection of residents' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the Department shall have the authority to require the licensee to file an additional bond in such amount as the Department determines to be necessary to protect the residents' cash resources.
- (f) The provisions of this section shall not apply if the licensee handles money of residents in amounts less than fifty dollars (\$50) per person and less than five hundred dollars (\$500) for all residents in any month.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.021 and 1568.072, Health and Safety Code.

Adopt Section 87826 to read:

87826 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES

87826

- (a) A licensee shall not be required to accept for admission or continue to care for any resident whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such resident's cash resources.
- (b) If such a resident is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the facility who has been designated by the resident or his/her authorized representative shall be handled by the licensee or facility staff, and shall be safeguarded in accordance with the requirements specified in (c) through (n) below.
- (c) No licensee or employee of a licensee shall accept appointment as a conservator of the person, or estate, or person and estate of any resident nor accept any general or special power of attorney except for Medi-Cal or Medicare claims for any resident; nor become the substitute payee for any payments made to any resident.
- (d) Cash resources, personal property, and valuables of residents handled by the licensee shall be free from any liability the licensee incurs.
- (e) Cash resources, personal property, and valuables of residents shall be separate and intact, and shall not be commingled with facility funds or petty cash.
 - (1) The above requirement shall not prohibit the licensee from providing advances or loans to residents from facility funds.
 - (A) Documentation of such transactions shall be maintained in the facility.

- (f) The licensee or employee of a licensee shall not make expenditures from residents' cash resources for any basic services required by these regulations, or for any basic services identified in a contract/admission agreement between the resident and the licensee.
- (g) The licensee shall not commingle cash resources and valuables of residents with those of another residential care facility of a different license number, regardless of joint ownership.
- (h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to, the following:

 - (1) Records of residents' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each resident. Supporting receipts for purchases shall be filed in chronological order.

 - (A) Receipts for cash provided to any resident from his/her account(s) shall include the resident's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:

"(full signature of resident) accepts (dollar amount) (amount written cursive), this date (date), from (payor)."
 - (B) The store receipt shall constitute the receipt for purchases made for the resident from his/her account.
 - (C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the resident's authorized representative, if any, otherwise to the resident.
 - (2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.
- (i) Immediately upon admission of a resident, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:

 - (1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.

87826 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES (Continued)

- (2) The account title shall clearly note that the account contains resident cash resources.
- (3) The licensee shall provide access to the cash resources upon demand by the resident or his/her authorized representative.
- (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.
 - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.
- (k) Upon discharge of a resident, all cash resources, personal property, and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident, or his/her authorized representative, if any.
 - (1) The licensee shall obtain and retain a receipt signed by the resident or his/her authorized representative.
- (l) Upon the death of a resident, all cash resources, personal property and valuables of that resident shall immediately be safeguarded in accordance with the following requirements:
 - (1) All cash resources shall be placed in an account as specified in (i) above.
 - (2) The executor or the administrator of the estate shall be notified by the licensee of the resident's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.
 - (3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the resident's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.
 - (4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the resident's death to the public administrator of the county as provided in Section 1145 of the California Probate Code.

- (m) The following requirements shall be met whenever there is a proposed change of licensee:
- (1) The licensee shall notify the Department of any pending change of licensee, and shall provide the Department an accounting of each resident's cash resources, personal property and valuables entrusted to his/her care.
 - (A) Such accounting shall be made on a form (Accounting Record for Change Of Licensee -- LIC 424 (1/84) provided or approved by the Department.
 - (2) Provided the Department approves the application for the new licensee, the form specified in (1)(A) above shall be updated, signed by both the former and new licensee, and forwarded to the Department.
- (n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of \$100, provided by or on behalf of a resident to the licensee, administrator or staff.
- (1) The record shall be attached to the account(s) specified in (h) above if the resident's cash resources, personal property or valuables have been entrusted to the licensee.
 - (2) Monetary gifts or valuables given by the friends or relatives of a deceased resident shall not be subject to the requirement specified in (n) and (n)(1) above.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87827 to read:

87827 INITIAL APPLICATION REVIEW

87827

- (a) Within 90 days of receipt by the Department of the application specified in Section 87818, the Department shall give written notice to the applicant of one of the following:
- (1) The application is complete.
 - (2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.
- (b) If the applicant does not submit the requested information within the 30 days specified in (a)(2) above, the application shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the application.
- (1) The above requirement shall not apply to applications for facilities under construction.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code and Section 15376, Government Code.

Adopt Section 87828 to read:

87828 CAPACITY DETERMINATION

87828

- (a) A license shall be issued for a specific capacity not to exceed 25 persons.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the Department, which shall take into consideration the following:
 - (1) Whether the fire clearance has been approved.
 - (2) The licensee's/administrator's ability to comply with applicable laws and regulations.
 - (3) Any other household members who reside at the facility and their individual needs.
 - (4) Physical features of the facility, including available living spaces, which are necessary in order to comply with regulations.
 - (5) Number of available staff to meet the care and supervision needs of the residents.
- (c) The Department shall have the authority to issue a license for fewer residents than is requested when the licensee's responsibilities to other persons in the home would preclude provision of the care required by these regulations.
- (d) When the license is issued for fewer residents than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision.
- (e) The Department shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.

- (1) If the licensee does not agree to the decrease in capacity, the Department shall have the authority to initiate revocation action.
- (f) The Department shall have the authority to restrict care to specific individuals:
 - (1) If care and supervision is limited to specific individuals, the Department shall specify the names of the individuals in a letter to the licensee.
 - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87829 to read:

87829 WITHDRAWAL OF APPLICATION

87829

(a) An applicant shall have the right to withdraw an application for an initial or renewal license.

(1) Such withdrawal shall be in writing.

(2) The fee for processing the initial or renewal application shall be forfeited.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87830 to read:

87830

87830 PROVISIONAL LICENSE

- (a) The Department shall have the authority to issue a provisional license to an applicant, pending action on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The facility is in substantial compliance with applicable law and regulation.
 - (2) An urgent need for licensure exists.
- (b) The capacity of a provisional license shall be limited to the number of residents for whom urgent need has been established, or the capacity established for the specific facility, whichever is less.
- (c) The Department shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The Department shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.
- (e) If, during the provisional license period, the Department discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings.
- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.062 and 1568.072, Health and Safety Code.

Adopt Section 87831 to read:

87831

87831 ISSUANCE OF LICENSE

- (a) Within 90 days of the date that a completed application, as defined in Section 87801(c)(6), has been received, the Department shall give written notice to the applicant of one of the following:
- (1) The application has been approved.
 - (2) The application has been denied.
 - (A) The notice of denial shall include the information specified in Section 87840.
- (b) The Department shall notify the applicant in writing of the issuance of the license.
- (1) Issuance of the license shall constitute written notification of license approval.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.062 and 1568.072, Health and Safety Code and
Section 15376, Government Code..

Adopt Section 87832 to read:

87832 TERM OF AN INITIAL OR RENEWAL LICENSE

87832

- (a) Except as provided in Section 87830, an initial license shall expire one year from the date of issue.
- (b) The Department shall have the authority to issue a renewal license for one year if it determines that the licensee, at the time of the renewal visit, is in substantial compliance with applicable law and regulation.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.061 and 1568.072, Health and Safety Code.

Adopt Section 87833 to read:

87833

87833 APPLICATION FOR RENEWAL OF A LICENSE

- (a) An application for the renewal of a license shall be filed on a form provided by the Department not less than thirty (30) days prior to the license expiration date.
- (b) The renewal processing fee shall be submitted with the application for renewal.
- (c) The renewal license shall be granted if a licensee files a renewal application within the time specified in (a) above unless the application has been denied.
- (d) Pending the issuance or denial of a renewal license pursuant to (c) above, the current license shall remain in effect.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.061 and 1568.072, Health and Safety Code.

Adopt Section 87834 to read:

87834 SUBMISSION OF NEW APPLICATION

87834

- (a) A licensee shall file a new application as required by Section 87818 whenever there is a change in conditions or limitations described on the current license, including, but not limited to, the following:
- (1) Any change in the location of the facility.
 - (A) Under these circumstances, the licensee shall be required to pay the reduced fee as specified in Section 87836 (c).
 - (2) Any change of licensee, including, but not limited to, the following when the licensee is a corporation.
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.
 - (3) Any change in facility category.
 - (4) Any increase in capacity.
 - (A) The Department shall have the authority to grant capacity increases without resubmission of a total application package, following a Department review and the securing of an appropriate fire clearance.
 - (B) The applicant shall pay the reduced fee as specified in Section 87836 (c).
 - (5) A permanent change in any resident from ambulatory to nonambulatory status.
- (b) A new application as required by Section 87818 shall be filed whenever an applicant fails to submit a new application within the time limit required by Section 87827 (a) if the applicant chooses to continue the application process.
- (c) A new application, as required by Section 87818 shall be filed whenever a licensee fails to file a renewal application within the specified time limit.
- (d) The Department shall not require the completion of the entire application process when a licensee applies for a new license due to a change in the facility location as specified in Section 87818(f).

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.061 and 1568.072, Health and Safety Code.

Adopt Section 87835 to read:

87835 CONDITIONS FOR FORFEITURE OF A RESIDENTIAL CARE FACILITY
FOR THE CHRONICALLY ILL LICENSE

87835

(a) The facility license shall be forfeited when the licensee:

- (1) Sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.
- (2) Surrenders the license to the department.
- (3) Moves a facility from one location to another.
- (4) Is convicted of any crime specified in Sections 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- (5) Dies.

(b) If the facility licensee dies, an adult relative who has control of the property shall be allowed to continue operating the facility under the existing license if the following conditions are met:

- (1) The Department receives notification of the death during the next normal working day and is informed of the relative's intent to continue operating the facility as a Residential Care Facility for the Chronically Ill.
- (2) The relative files an application, within five days of the date of the licensee's death, submits his/her fingerprint cards, and provides evidence of the licensee's death.

(c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department decision on whether to approve a provisional license.

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 1568.062, Health and Safety Code.

- (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above have been met and that the health and safety of the residents of the facility will not be jeopardized.

Authority Cited: Section 1568.072, Health and Safety Code

Reference: Sections 1568.061, 1568.064, and 1568.072, Health and Safety Code.

Adopt Section 87836 to read:

87836 INITIAL/RENEWAL APPLICATION PROCESSING FEES

87836

(a) The applicant or licensee shall pay the fee charged by the Department for processing the initial or renewal application.

(b) A fee shall be charged at the time of initial and renewal application.

(1) The fee charged at the time of initial application shall be according to requested capacity as follows:

<u>Capacity</u>	<u>Initial Application</u>
<u>1 - 6</u>	<u>\$200 plus \$8 per bed</u>
<u>7 - 15</u>	<u>\$250 plus \$8 per bed</u>
<u>16 - 25</u>	<u>\$300 plus \$8 per bed</u>

(2) The fee charged at the time of renewal shall be according to existing licensed capacity, unless the licensee requests a lower or higher capacity. The fee schedule shall be as follows:

<u>Capacity</u>	<u>Renewal Application</u>
<u>1 - 6</u>	<u>\$200 plus \$8 per bed</u>
<u>7 - 15</u>	<u>\$250 plus \$8 per bed</u>
<u>16 - 25</u>	<u>\$300 plus \$8 per bed</u>

(c) When a licensee moves a facility from one location to another, the reduced application processing fee shall be as follows:

<u>Capacity</u>	<u>Relocation</u>
<u>1 - 6</u>	<u>\$100 plus \$4 per bed</u>
<u>7 - 15</u>	<u>\$125 plus \$4 per bed</u>
<u>16 - 25</u>	<u>\$150 plus \$4 per bed</u>

(1) The reduced fee shall be charged under either of the following conditions:

(A) The facility moves from one location to another and notifies the Department at least 30 calendar days before actual relocation.

OR

(B) The facility relocates due to an emergency.

(2) The fee shall be based on requested capacity at the new location.

(d) The application/renewal processing fee shall be nonrefundable.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.05 and 1568.072, Health and Safety Code.

Adopt Article 4 to read:

Article 4. ADMINISTRATIVE ACTIONS

Adopt Section 87840 to read:

87840 DENIAL OF INITIAL LICENSE

87840

- (a) Except as specified in Section 87830, the Department shall deny an application for an initial license if the applicant is not in compliance with applicable laws and regulations.
- (1) The Department shall have the authority to deny an application for an initial license if the applicant has failed to pay any penalty assessments pursuant to Section 87854 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the Department have been made.
- (b) If the application for an initial licensee is denied, the Department shall mail the applicant a written Notification of Initial Application Denial -- LIC 192 (10/89).
- (1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.
- (c) An applicant shall have the right to appeal the denial of the application.
- (1) The applicant must make any request for a hearing by mailing or delivering a written request to the Department within 15 days after the Department mails the notice of denial.
- (2) The appeal hearing shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.
- (d) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.062 and .063 and 1568.072, Health and Safety Code.

Adopt Section 87841 to read:

87841 DENIAL OF A RENEWAL LICENSE

87841

- (a) The Department shall have the authority to deny an application for a renewal license under the following circumstances:
- (1) The licensee is not in substantial compliance with applicable law and regulation at the time of the renewal visit.
 - (2) Failure to substantially comply with licensing requirements has resulted in the Department's action to suspend or revoke the license or to seek other remedies as provided by law.
 - (3) The licensee has failed to pay any penalty assessments pursuant to Section 87854 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the Department have been made.
 - (4) The licensee refuses or fails to pay the renewal processing fee as specified in Section 87836.
- (b) If the application for a renewal license is denied, the Department shall mail the licensee a written notice of denial (LIC 193 (8/88)).
- (1) The notification shall inform the licensee of and set forth the reasons for the denial, and shall advise the licensee of the right to appeal.
- (c) (1) The licensee must make any request for a hearing by mailing or delivering a written request to the Department within 15 days after the Department mails the notice of denial.
- (2) The appeal hearing shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.
- (d) The licensee shall have the right to appeal the denial of the application for renewal.
- (e) When a renewal application is denied and the licensee appeals in writing within 15 days of the denial, the Department shall issue a license pending adoption by the Director of a decision on the denial action.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.062 and .063 and 1568.072, Health and Safety Code.

Adopt Section 87842 to read:

87842 REVOCATION OR SUSPENSION OF LICENSE

87842

- (a) The Department shall have the authority to suspend or revoke any license under any of the following conditions:
- (1) Violation by the licensee of any of the provisions of Health and Safety Code Sections 1568.01 through 1568.09 or applicable regulations.
 - (2) Aiding, abetting, or permitting the violation of any provision of Health and Safety Code Sections 1568.01 through 1568.09 and applicable regulations promulgated under this chapter by the licensee.
 - (3) Conduct which is inimical to the health, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
 - (4) The provision of services beyond the level the facility is authorized to provide, or accepting or retaining residents who require services of a higher level than the facility is authorized to provide.
- (b) The Department may temporarily suspend any license prior to any hearing, if the action is necessary to protect residents of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety.
- (1) The Department shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve such licensee with an accusation.
 - (2) Upon receipt of a notice of defense to the accusation from the licensee, the Department shall, within 15 days, set the matter for hearing.
 - (3) The hearing shall be held as soon as possible but not later than 30 days after receipt of such notice.
 - (4) The temporary suspension shall remain in effect until the time of the hearing is completed and the Department has made a final determination on the merits.

(A) The temporary suspension shall be deemed vacated if the Department fails to make a final determination on the merits within 30 days after the original hearing has been completed.

(c) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Government Code Section 11500 et seq.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.082, Health and Safety Code.

Adopt Section 87843 to read:

87843

87843 LICENSEE/APPLICANT COMPLAINTS

- (a) Each licensee/applicant shall have a right, without prejudice, to notify the Department of any alleged misapplication or capricious enforcement of regulations by any licensing representative, or of any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87844 to read:

87844 INSPECTION AUTHORITY

87844

(a) The Department shall have the authority to conduct an inspection of any licensed or unlicensed facility at any time.

(1) The Department shall conduct an inspection of the licensed facility within 90 days after the date of issuance of a license.

(2) Any duly authorized officer, employee, or agent of the Department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

(b) An inspection of a Residential Care Facility for the Chronically Ill as a result of a request for inspection shall be governed by the following provisions:

(1) Any person may request an inspection of the facility. The request may be made anonymously.

(2) The request for an inspection may be made to the Department either orally or in writing.

(3) The Department shall act upon a request for inspection as specified below if the request alleges a violation of applicable statute or regulation by the facility:

(A) If the complaint does not allege a denial of a statutory right of access to the facility the Department shall do the following:

1. Make a preliminary review of the complaint to determine if it is willfully intended to harass the licensee or is without any reasonable basis.

2. If the complaint is neither willfully intended to harass the licensee nor is without any reasonable basis, inspect the facility and investigate the complaint within 10 days after receiving the complaint. Notwithstanding the preceding sentence, the Department shall not be required to inspect the facility within 10 days after receiving the complaint if doing so would adversely affect the Department's investigation or the investigation of another agency.

3. Promptly inform the complainant, if not anonymous, of the Department's proposed course of action in response to the complaint.

- (B) If the complaint alleges denial of a statutory right of access to the facility the Department shall do the following:
1. Review the complaint.
 2. Promptly inform the complainant, if not anonymous, of the Department's proposed course of action in response to the complaint.
- (4) The Department shall not be required to act upon a request for inspection if the request does not allege a violation of applicable statute or regulation by the facility.
- (5) The Department shall not disclose the identity of the complainant or of any other person named in the complaint unless the complainant authorizes disclosure of those identities.
- (6) The Department shall provide the substance of the complaint to the licensee of the facility at a time no sooner than at the time of the inspection made in response to the complaint.
- (c) The Department shall have the authority to interview residents or staff, and to inspect and audit resident or facility records without prior consent.
- (1) The licensee shall make provisions for private interviews with any residents or any staff member and for the examination of all records relating to the operation of the facility.
- (d) The Department shall have the authority to observe the physical condition of the resident, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the resident.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.07, .071 and .072, Health and Safety Code.

Adopt Section 87845 to read:

87845 EVALUATION VISITS

87845

- (a) All facilities shall be evaluated periodically and inspected by the Department to determine compliance with applicable laws and regulations.
- (b) The Department shall have the authority to conduct evaluations and inspections at least once per year or more often if deemed necessary by the Director.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.07 and .072, Health and Safety Code.

Adopt Article 5 to read:

Article 5. ENFORCEMENT PROVISIONS

Adopt Section 87852 to read:

87852 DEFICIENCIES IN COMPLIANCE

87852

- (a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, or other person in charge of the facility shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.
- (c) The notice of deficiency shall be in writing and shall include the following:
- (1) Citation of the law or regulation which has been violated.
 - (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified law or regulation, and the particular place or area of the facility in which it occurred.
 - (3) The plan developed, as specified in (b) above, for correcting each deficiency.
 - (4) A date by which each deficiency shall be corrected.
- (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
1. The potential hazard presented by the deficiency.
 2. The number of residents affected.
 3. The availability of equipment or personnel necessary to correct the deficiency.
 4. The estimated time necessary for delivery and for any installation of necessary equipment.
- (B) The time limit for correcting a deficiency shall not be more than 30 calendar days following the date the notice of deficiency was served.
- (C) The Department shall have the authority to require the deficiency to be corrected before the 30 calendar day time limit for serious deficiencies.

- (D) The Department shall have the authority to require the correction of serious deficiencies within 24 hours or less if they present an immediate threat to the health and safety of the residents.
- (5) The amount of the penalty being assessed and the date the penalty begins.
- (6) The address and telephone number of the Department office responsible for reviewing notices of deficiencies for the area in which the facility is located.
- (d) The evaluator shall notify the licensee in writing of all deficiencies identified by one of the following means:
 - (1) Personal delivery to the licensee at the completion of the visit.
 - (2) If the licensee is not at the facility site, by leaving the notice with the person in charge of the facility at the completion of the visit.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee or the person in charge of the facility refuses to accept the notice or the notice cannot be completed during the visit, mailing the notice to the licensee.
- (e) Reports on the results of each inspection and evaluation or consultation shall be maintained by the Department and made available for public review.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.07 and .072, Health and Safety Code.

Adopt Section 87853 to read:

87853 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE

87853

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
- (1) The follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
- (2) Except as specified in Section 87854, no penalty shall be assessed unless a follow-up visit is conducted.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty (Facility Civil Penalty Assessment - LIC 421 (10/89)).
- (c) A notice of penalty shall be in writing and shall include:
- (1) The amount of penalty assessed, and the date the payment is due.
- (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed and the correction is made while the evaluator is present, a follow-up visit is not required.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.07 and .072, Health and Safety Code.

Adopt Section 87854 to read:

87854 PENALTIES

87854

- (a) A penalty of \$25 per day shall be assessed for deficiencies, other than serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (b) A penalty of \$50 per day shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (c) The maximum daily penalty for all deficiencies shall not exceed \$150, except as specified in (e) below.
- (d) When a facility is cited for a deficiency and repeats the same violation within a 12-month period, an immediate penalty of \$150 and \$50 per day thereafter shall be assessed until the deficiency is corrected.
- (e) A deficiency subject to the immediate penalty assessment specified in (d) above which is repeated within a 12-month period shall be cited. If it is a serious deficiency, an immediate penalty of \$1,000 and \$100 per day thereafter shall be assessed until the serious deficiency is corrected as defined in 87801(s)(1).
- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
 - (1) Immediate penalty assessments specified in (d) and (e) above shall begin on the day the deficiency is cited.
 - (2) If an immediate penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (g) If a licensee or his/her representative reports to the Department that a deficiency has been corrected, the penalty shall cease as of the day the Department receives notification that the correction was made.
 - (1) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.
 - (2) If it is verified that the deficiency has not been corrected, penalties shall continue to accrue.
 - (3) If it is verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (h) All penalties shall be due and payable upon receipt of notice for payment from the Department, and shall be paid only by check or money order made payable to the agency indicated in the notice.

- (i) The Department shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (h) above.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.0822, Health and Safety Code.

Adopt Section 87855 to read:

87855 ADMINISTRATIVE REVIEW

87855

- (a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty, within 10 working days of receipt of such notice(s).
 - (1) If the deficiency has not been corrected, penalties shall continue to accrue during the review process.
- (b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).
- (c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.
- (d) The reviewer shall have the authority to extend the date specified for correction of a deficiency, if warranted by the facts or circumstances presented to support a request for extension.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.07 and .072, Health and Safety Code.

Adopt Section 87858 to read:

87858 UNLICENSED FACILITY PENALTIES

87858

- (a) An immediate penalty of \$100 per resident per day shall be assessed for the operation of an unlicensed facility under the following condition:
- (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law, (LIC 195 (9/87)) pursuant to Section 87806, and continues to operate.
 - (A) For purposes of this section, an application shall be deemed complete if it includes the information required in Section 87818.
 - (B) The completed application shall be deemed to be submitted when received by the Department.
- (b) A penalty of \$200 per resident per day shall be assessed for the continued operation of an unlicensed facility as follows:
- (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.
 - (A) The penalty of \$200 per resident per day shall continue until the operator ceases operation, or submits a completed application pursuant to Section 87818.
 - (2) Unlicensed operation continues after denial of the initial application.
 - (A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
 - (B) The penalty of \$200 per resident per day shall continue until the operator ceases operation.
- (c) If the operator of the unlicensed facility or his/her representative reports to the Department that unlicensed operation, as defined in Sections 87801 (u)(1) and 87806, has ceased, the penalty shall cease as of the day the Department receives the notification.

- (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.
- (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the Department, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The Department shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.
- (f) Payment of penalties or application for a license in response to a citation under this section does not permit the operation without a license of a Residential Care Facility for the Chronically Ill.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.0821, Health and Safety Code.

Adopt Section 87859 to read:

87859 UNLICENSED FACILITY ADMINISTRATIVE APPEAL

87859

- (a) The operator of an unlicensed facility or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
 - (1) If the unlicensed facility operation has not ceased, the penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.0821, Health and Safety Code.

Adopt Article 6 to read:

Article 6. CONTINUING REQUIREMENTS

Adopt Section 87860 to read:

87860 BASIC SERVICES TO BE PROVIDED BY THE FACILITY

87860

- (a) All licensees of Residential Care Facilities for the Chronically Ill shall ensure the provision of the basic services specified below:
- (1) Safe and healthful living accommodations and services.
 - (A) The resident shall have securable storage space for personal items.
 - (2) Three nutritious, well-balanced meals and snacks, made available daily, including modified diets prescribed by the physician.
 - (A) Kitchen space with adequate refrigerator space in the facility for residents who desire and are capable of preparing their own meals.
 - (B) The licensee shall ensure that nutrition consultation is made available to the resident for dietary needs.
 - (3) Case management for health and social services.
 - (4) The development, implementation, monitoring and modification of the Individual Services Plan, as specified in Section 87896, which outlines the resident's needs.
 - (5) Personal assistance and care as needed by the resident and as indicated in Section 87895.
 - (6) Regular observation of the resident's physical and mental condition.
 - (7) Discharge assistance including, but not limited to, referral of residents to other available placements, if needed.
 - (8) Intermittent home health care services.
 - (9) Common areas including recreation areas.
 - (10) Arrangement to meet health needs as identified in the resident's Individual Services Plan as specified in Section 87896.

- (11) The arranging of transportation for medical, dental, therapeutic and counseling services.
- (12) Social and emotional support services of the resident's own choice.
- (b) For SSI/SSP recipients who are residents, the basic services shall be provided and/or made available at the basic rate with no additional charge to the resident.
 - (1) An extra charge shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admission agreement and the charge is limited to 10% of the board and room portion of the SSI/SSP grant.
 - (2) An extra charge shall be allowed for special food services or products beyond that specified in Subsection (a)(2) above.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87861 to read:

87861 REPORTING REQUIREMENTS

87861

- (a) Each licensee or applicant shall furnish reports to the Department as required by the Department, including, but not limited to, those specified in this section.
- (b) Upon the occurrence, during the operation of the facility, of any of the events specified in (1) below, a report shall be made to the Department on the same day or within the Department's next working day during its normal business hours. In addition, a written report containing the information specified in (2) below shall be submitted to the Department within seven days following the occurrence of such event.
 - (1) Events reported shall include the following:
 - (A) Death of any resident from any cause.
 - (B) Any injury to any resident which requires medical treatment.
 - (C) Any unusual incident or resident abuse which threatens the physical or emotional health or safety of any resident.
 - (D) Any suspected physical or psychological abuse of any resident.

(E) Epidemic outbreaks.

(F) Poisonings.

(G) Catastrophes.

(H) Communicable diseases, as specified in California Code of Regulations, Title 17, Section 2502.

(I) Fires or explosions which occur in or on the premises.

(2) Information provided shall include the following:

(A) Resident's name, age, sex, and date of admission.

(B) Date and nature of event.

(C) Attending physician's name, findings, and treatment, if any.

(D) Disposition of the case.

(c) The items below shall be reported to the Department within 10 working days following the occurrence.

(1) Organizational changes.

(2) Any change in the licensee's or applicant's mailing address.

(3) Any change of the chief executive officer of a corporation or association.

(A) Such notification shall include the new chief executive officer's name and address.

(B) Fingerprint cards shall be submitted as specified in Section 87819.

(4) Any changes in the plan of operation which affect the services to residents.

(d) The items specified in (b)(1)(A) through (I) above shall also be reported to the resident's authorized representative, if any.

(e) The items specified in (b)(1)(E) through (H) above shall also be reported to the local health officer, when appropriate, pursuant to Title 17, California Code of Regulations, Sections 2500, 2502 and 2503.

- (f) Fires or explosions which occur in or on the premises shall be reported immediately to the local fire authority; in areas not having organized fire services, to the State Fire Marshal within 24 hours; and to the Department no later than the next working day.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87862 to read:

87862 FINANCES

87862

(a) The licensee shall meet the following financial requirements:

- (1) Development and maintenance of a financial plan which ensures resources necessary to meet operating costs for care and supervision of residents.
- (2) Maintenance of financial records.
- (3) Submission of financial reports as required, upon the written request of the Department.
 - (A) Such request shall explain the necessity for disclosure.
 - (B) The Department shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87863 to read:

87863 ACCOUNTABILITY

87863

(a) The licensee, whether an individual or other entity, shall be accountable for the general supervision of the licensed facility, and for the establishment of policies concerning its operation.

(1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87864 to read:

87864 ADMINISTRATOR-QUALIFICATIONS AND DUTIES

87864

- (a) All Residential Care Facilities for the Chronically Ill shall have an administrator who has the following educational background and work experience specified in either Subsection (1), (2), or (3) below:
 - (1) A baccalaureate degree in psychology, social work or a related human services field, or be a registered nurse or medical doctor.
 - (2) A baccalaureate degree in any field with a minimum of one year of experience in a supervisory or management position in human services.
 - (3) A minimum of four years of experience in a supervisory or management position in human services.
- (b) An administrator shall not be responsible for the administration of more than two facilities.
- (c) The administrator shall have the following qualifications:
 - (1) The ability to read, write, speak and understand English.
 - (2) Attainment of at least 18 years of age.
 - (3) Knowledge of the requirements for providing the type of care and supervision needed by residents, including the ability to communicate with such residents.
 - (4) Knowledge of and ability to comply with applicable law and regulation.
 - (5) Ability to maintain or supervise the maintenance of financial and other records.
 - (6) Ability to direct the work of others, when applicable.
 - (7) Ability to establish the facility's policy, program and budget.
 - (8) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.
 - (9) Knowledge of basic food nutrition.
- (d) The administrator shall have a combination of 40 hours of documented training. The training shall be in areas selected from the following: resident-related health conditions, signs and symptoms of substance abuse, business administration, death and dying, self-help and coping when caring for the terminally ill, community resources, food purchasing, personnel supervision and relations, personality conflict and facility management.

(e) The administrator shall:

- (1) Provide for continuous supervision of all residents, as needed to meet the needs of individual residents.
- (2) Administer the applicable policies of the facility.
- (3) Comply with applicable laws and regulations.
- (4) Communicate with the Department as required by applicable laws and regulations.
- (5) Acknowledge the receipt of the Department's correspondence, notices, or field reports when the Department has requested a response.
- (6) Assure the timely correction of all cited deficiencies.
- (7) Adjust the program to accommodate the needs of all residents.
- (8) Coordinate all activities and services.
- (9) Recruit, hire, and supervise all staff.
- (10) Provide initial orientation for all staff and ongoing educational and training programs for the direct care staff.

(f) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section.

(g) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.

(1) When the administrator is absent from the facility, there shall be coverage by a substitute designated by the licensee who meets the qualifications specified in Section 87864.1, who is on site, and who shall be capable of, and responsible and accountable for the management and administration of the facility in compliance with applicable laws and regulations.

(A) When the administrator is absent from the facility for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Section 87864(c).

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87864.1 to read:

87864.1 FACILITY MANAGER

87864.1

- (a) Each Residential Care Facility for the Chronically Ill shall have a Facility Manager.
 - (1) For facilities with a licensed capacity of six (6) or fewer residents, the administrator and the facility manager may be the same person, provided the requirements of this section are met.
 - (2) An assistant Facility Manager shall be designated to act in the capacity of the facility manager during the hours when he/she is absent from the facility, including the evening and night hours.
- (b) Each Facility Manager shall be able to read, write, speak and understand English.
- (c) The Facility Manager shall have the following qualifications:
 - (1) One year of work experience in a residential care facility that served persons with chronic, life-threatening illnesses or equivalent experience as determined by the Director.
 - (2) A combination of 40 hours of documented training. The training shall be in areas selected from the following: resident-related health conditions, signs and symptoms of substance abuse, death and dying, coping when caring for the terminally ill, community resources, food purchasing, personnel supervision and relations, personality conflict and facility management courses.
 - (3) A certificate or other written documentation that he/she has completed one semester of California Nursing Assistant training.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87865 to read:

87865 PERSONNEL REQUIREMENTS

87865

- (a) There shall be at least one staff person at the facility at all times who is able to read, write, speak and understand English.
- (b) Facility personnel shall be competent to provide the services necessary to meet individual resident needs and shall, at all times, be employed in numbers necessary to meet such needs.
- (c) The Department shall have the authority to require any licensee to provide additional staff whenever the Department determines that additional staff are required for the provision of services necessary to meet resident needs. The following factors shall be taken into consideration in determining the need for additional staff.
 - (1) Needs of the particular residents.
 - (2) Extent of the services provided by the facility.
 - (3) Physical arrangements of the particular facility.
 - (4) Existence of a state of emergency or disaster.
- (d) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility staff plan.
- (e) The following facility staff shall be at least 18 years of age:
 - (1) Persons who supervise employees and/or volunteers.
 - (2) Persons, including volunteers, who provide any element of care and supervision to residents.
- (f) The licensee shall provide for direct supervision of residents during participation in or presence at potentially dangerous activities or areas on the facility premises.
 - (1) Adults who supervise while residents are using a pool or other body of water shall have a valid water safety certificate.

(g) All direct care facility staff shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the resident population served and , to the job assigned:

- (1) Principles of nutrition, food preparation and storage and menu planning.
- (2) Housekeeping and sanitation principles.
- (3) Provision of resident care and supervision, including communication.
- (4) Assistance with prescribed medications which are self-administered.
- (5) Recognition of early signs of illness and the need for professional assistance.
- (6) Availability of community services and resources.
- (7) For facilities that serve persons with AIDS, all direct care staff shall have 20 clock hours of on-the-job training on AIDS-related conditions, within three months after employment.
- (8) Certificate or other written documentation that he/she has completed one semester of California Nursing Assistant Training or has equivalent experience or training including but not limited to, the following areas:
 - (A) Basic information on blood born infections.
 - (B) Universal precautions for avoiding the contacting and spreading of infections.
 - (C) Personal protective equipment and their use for avoiding the contacting and spreading of infections.
 - (D) Practices used in the work place for avoiding the contracting and spreading of infections including but not limited to:
 1. Handwashing.
 2. Handling syringes and needles.
 3. Handling body fluids and waste.
 4. Disposal of hazardous waste.

- (9) The training specified in (g) above must be given by the appropriately skilled professional.
- (A) The direct care facility staff shall have documentation signed by the appropriately skilled professional which outlines the type of training completed.
- (B) The licensee shall maintain a copy of the training documentation in the facility personnel file.
- (h) All personnel, including the licensee, administrator, and facility managers shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.
- (1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.
- (2) A health screening report signed by the person performing such screening shall be made on each person specified in (k) above, and shall indicate the following:
- (A) The person's physical qualifications to perform the duties to be assigned.
- (B) The presence of any health condition that would create a hazard to the person, residents or other staff members.
- (3) All volunteers who work in the facility shall have a test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.
- (i) Personnel with evidence of physical illness that poses a threat to the health and safety of residents shall be relieved of their duties.
- (j) Pending receipt of a criminal record transcript as specified in Section 87819, and prior to employment or at initial presence in the facility, all employees and volunteers who require criminal record clearance shall sign a statement under penalty of perjury, on a form (Criminal Record Statement - LIC 508 (10/89)) provided by the Department, which contains either of the following:

- (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation as specified in Section 87819.
- (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violations as specified in Section 87819.
 - (A) If a person has been convicted of a crime other than a minor traffic violation, as specified in Section 87819, he/she shall also acknowledge that his/her continued employment, residence or presence in the facility is conditioned on approval of the Department.
- (k) Residents shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate in household duties and other tasks suited to the resident's needs and abilities.
 - (1) Such duties and tasks shall be specified in the resident's needs and services plan.
- (l) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.
- (m) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation or prejudice.
- (n) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 87872.
- (o) Support staff shall be employed as necessary to perform the following duties:
 - (1) Office work.
 - (2) Cooking.
 - (3) House Cleaning.
 - (4) Laundering.
 - (5) Maintenance of buildings, equipment and grounds.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87865.1 to read:

87865.1 STAFFING RATIOS FOR DAY AND NIGHT CARE AND SUPERVISION

87865.1

- (a) There shall be a minimum of one direct care staff person on duty at all times.
 - (1) For daytime hours, the minimum staffing ratio shall be one direct care staff person for every ten residents.
 - (A) For those residents who require total care and supervision as specified in the resident's Individual Services Plan or as observed by the Department, the staffing ratio shall be one direct care staff person to every three residents.
 - (2) For evening and night hours,
 - (A) For facilities with a licensed capacity of 1-12 residents, there shall be one direct care staff up, awake and on duty with one back-up staff person on call within 10 minutes of the facility in case of an emergency.
 - (B) For facilities licensed for 13 to 25 residents, there shall be two direct care staff up, awake and on duty with one staff person on call within 10 minutes of the facility in case of an emergency.
- (b) This staffing ratio shall exclude the administrator and support staff as specified in Section 87865(o).
- (c) During the period of acceleration of the illness where death is imminent, notwithstanding the above staffing ratio requirements, the resident shall be provided twenty-four-hour attendant care.
 - (1) Volunteer and resident's family members, significant other or close friend may provide this service.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87866 to read:

87866 PERSONNEL RECORDS

87866

- (a) Employment application forms shall be completed and maintained on each employee, shall be available to the Department for review, and shall contain the following information:
- (1) Employee's full name.
 - (2) Driver's license number if the employee is to transport residents.
 - (3) Date of employment.
 - (4) A statement signed by the employee that he/she is at least 18 years of age.
 - (5) Home address and phone number.
 - (6) Documentation of educational background, continuing education hours, training and/or experience, as specified in Section 87865.
 - (7) Past work experience, including types of employment and former employers.
 - (8) Duties of the employee.
 - (9) Termination date, if no longer employed by the facility.
 - (10) Documentation of first aid training.
 - (11) Criminal record statement signed by the employee, as required by Section 87819.
- (b) All personnel including the licensee, administrator, employees and volunteers, shall have on file either a record of health screening or the volunteer statement and a test for tuberculosis.
- (c) All personnel records shall be retained for at least three years following termination of employment.
- (d) All personnel records shall be maintained at the facility site.
- (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the Department at the facility site upon request.
- (e) In all cases, personnel records shall document the hours actually worked.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87868 to read:

87868

87868 ADMISSION AGREEMENTS

- (a) The licensee shall complete and maintain current, written admission agreements with each resident or with his/her authorized representative, if any.
- (b) Admission agreements shall specify the following:
- (1) Basic services.
 - (2) Available optional services.
 - (3) Payment provisions, including the following:
 - (A) Basic rate.
 - (B) Optional services rates.
 - (C) Payor.
 - (D) Due date.
 - (E) Frequency of payment.
 - (4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the resident or his/her authorized representative of any basic rate change.
 - (A) It shall be acceptable for agreements involving residents whose care is funded at government-prescribed rates to specify that the effective date of a government rate change shall be considered the effective date for basic service rate change and that no prior notice is necessary.
 - (5) Refund conditions.
 - (6) Right of the Department to perform the duties authorized in Section 87844.
 - (7) Conditions under which the agreement may be terminated.
 - (8) The facility's policy concerning family visits and other communication with residents.
- (c) Admission agreements shall be dated and signed by the resident or his/her authorized representative and the licensee, or his/her designated representatives, no later than seven calendar days following admission.

- (d) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above.
- (e) The licensee shall retain the original copy of the agreement and shall provide copies to the resident and to his/her authorized representative, if any.
- (f) The licensee shall comply with all terms and conditions set forth in the admission agreement.
- (g) The admission agreement shall be automatically terminated by the death of the resident. No liability or debt shall accrue after the date of death.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87868.1 to read:

87868.1 RESIDENT EVICTION PROCEDURES

87868.1

- (a) The licensee shall be permitted to evict a resident with 30 days written notice for any of the following reasons:
- (1) Nonpayment of the basic rate for the provision of basic services within ten days of the due date.
 - (2) Failure of the resident to comply with the provisions of the Admission Agreement.
 - (3) Modifications to the resident's Individual Services Plan specified in Section 87896 indicate that the resident's needs can no longer be met by the facility.
 - (A) Under these circumstances, the resident shall be given an opportunity to voluntarily relocate.
 - (B) The facility shall assist the resident to relocate, if needed.
 - (4) The resident's needs can no longer be met in the facility and his/her continued placement is inappropriate due to a change in the facility license or facility program.
- (b) The licensee shall be permitted to evict a resident with three days prior written notice if the resident has engaged in behavior which poses a threat to himself/herself, other residents, and/or the facility personnel.
- (1) Prior to an eviction, the following requirements shall be met:
 - (A) The Individual Services Team has submitted written approval to the licensee which concurs with the decision to evict the resident.
 - (B) The licensee has received prior written and/or documented telephone approval for the notice of eviction from the Department.
 - (C) The Department shall approve or deny the request within two working days of receipt.
 - (D) The licensee shall maintain a copy of the documentation in the resident file.
 - (E) The documentation shall specify where the resident was relocated.
- (c) The licensee shall set forth in the notice the reasons for the eviction, with specific facts including the date, place, witnesses, and circumstances.

- (d) The licensee shall, upon providing the resident with notification of eviction as specified in (a) or (b) above, mail a copy of the eviction notice to the resident's authorized representative, if any.
- (e) The licensee shall send to the Department a copy of the 30-day written notice in accordance with (a) above within five days of giving the notice to the resident.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

87868.2 RESIDENT RELOCATION PLAN

- (a) In any instance where the Department does not suspend the facility license and the Department requires that a resident be relocated because the resident has a health condition(s) which cannot be cared for within the limits of the license of the facility or which requires inpatient care in a licensed health facility, the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the resident which may result in transfer trauma.
- (1) The written relocation plan shall include, but not be limited to, the following:
- (A) A specific date for beginning and a specific date for completion of the process of safely relocating the resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days.
 - (B) A specific date when the resident and the resident's authorized representative, if any, shall be notified of the need for relocation.
 - (C) A specific date when consultation with the resident's physician shall occur to obtain a current medical assessment of the resident's health needs, to determine the appropriate facility type for relocation and to ensure that the resident's health care needs continue to be met at all times during the relocation process.
 - (D) The method by which the licensee will participate in the identification of an acceptable relocation site with the resident and the authorized representative, if any. The licensee shall advise the resident and/or the authorized representative that if the resident is to be moved to another Residential Care Facility for the Chronically Ill, a determination must be made that the resident's needs can be legally met in the new facility before the move is made. If the resident's needs cannot be met in the new facility, the resident must be moved to a facility licensed to provide the necessary care.
 - (E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, clergy, Multipurpose Senior Services Programs to ensure that services are provided to the resident before, during and after the move. The need for the move shall be discussed with the resident to assure the resident that support systems will remain in place.
 - (F) Measures to be taken until relocation to protect the resident and/or meet the resident's health and safety needs.

(G) An agreement to notify the Department when the relocation has occurred, including the resident's new address, if known.

(2) The relocation plan shall be submitted in writing to the Department within the time set forth in the written notice by the Department that the resident requires health services that the facility cannot legally provide.

(3) Any changes in the relocation plan shall be submitted in writing to the Department. The Department shall have the authority to approve, disapprove or modify the plan.

(4) If relocation of more than one (1) resident is required, a separate plan shall be prepared and submitted in writing for each resident.

(5) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in (a) and (b) of this section for relocating a resident who has a health condition(s) which cannot be cared for in the facility and/or which requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce the likelihood of transfer trauma to the resident.

(6) In cases where the Department determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the Department shall require the licensee to immediately relocate the resident.

(A) No written relocation plan is necessary in cases of immediate relocation.

(b) In all cases when a resident must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the Department in the relocation process. Such cooperation shall include, but not be limited to, the following activities:

(1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the resident.

(2) Contacting the resident's authorized representative to assist in transporting him/her, if necessary.

(3) Contacting other suitable facilities for placement, if necessary.

(4) Providing access to resident's files, when required by the Department.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.07, .072, and .073, Health and Safety Code.

Adopt Section 87868.3 to read:

87868.3 DEPARTMENT RELOCATION DETERMINATION

87868.3

- (a) The Department shall require the relocation of a resident to the inpatient care unit of a licensed health facility if it is determined that the resident, due to his/her physical and/ or mental health condition, requires a higher level of care than the facility can legally provide.
 - (1) The Department shall obtain an assessment of the resident's physical and/or mental health condition from the appropriately skilled professional.
 - (A) The assessment shall include input from the resident, his/her authorized representative, his/her physician and/or surgeon, and the Registered Nurse Case Manager.
 - (B) The assessment shall specify the type of illness which the resident is experiencing, whether the illness is episodic or continuous, and whether the resident's need for a higher level of care is temporary or permanent.
- (b) The Department shall give notice to the resident and/or his/her authorized representative to relocate if the assessment supports the Department's determination that the resident requires inpatient care in a health facility.
 - (1) The Department shall send copies of the Written Notice to Relocate to the licensee, resident's physician and surgeon and the Registered Nurse Case Manager.
 - (2) The Written Notice to Relocate shall specify a deadline date for the licensee to submit the plan for relocation and carry out the relocation procedures specified in Section 87868.2.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.07, .072, and .073, Health and Safety Code.

Adopt Section 87868.4 to read:

87868.4 RESIDENT REQUESTS FOR REVIEW OF RELOCATION DECISION

87868.4

- (a) A resident and/or his/her authorized representative may request a review and determination of the Department's Written Notice to Relocate specified in Section 87868.3 (b).
- (1) The resident's right to a review of the Written Notice to Relocate by the Department shall not:
 - (A) Nullify a determination by the Department that the resident's health and safety are in immediate danger and immediate relocation is required.
 - (B) Apply to the eviction procedures outlined in Section 87868.1.
 - (C) Authorize a right to a fair hearing or any other review process not specified in this chapter.
 - (2) The resident and/or his/her authorized representative shall file the request for review with the licensee within three working days after his/her receipt of the Department's Written Notice to Relocate.
 - (3) The licensee shall forward the request to the Department within two (2) working days of receipt of the resident's request for review.
 - (4) The Department shall not refuse to consider the request if the licensee fails or refuses to submit the request as specified in Subsection (a)(3) above.
- (b) The Department shall have 30 days from the date that the resident was initially informed by the Department to relocate in which to complete the review and make a determination on the request.
- (1) The Department shall notify the resident and/or his/her authorized representative of that determination.
 - (2) If the determination is made that the resident must relocate, the Department shall send a revised Written Notice to Relocate to the resident and/or his/her authorized representative.
 - (A) The Department shall send copies of the Written Notice to Relocate to the licensee, resident's physician and surgeon and the Registered Nurse Case Manager.

- (B) The Written Notice to Relocate shall include a plan for transfer which specifies the date for completion of the relocation.
- (C) The Written Notice to Relocate shall specify that the licensee shall follow procedures to minimize transfer trauma for the resident during the relocation, as specified in Section 87868.2.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and .073, Health and Safety Code.

Adopt Section 87870 to read:

87870 RESIDENT RECORDS

87870

- (a) A separate, complete, and current record shall be maintained in the facility for each resident.
- (b) Each record shall contain information including, but not limited to, the following;
 - (1) Name of resident.
 - (2) Birthdate.
 - (3) Sex.
 - (4) Date of admission.
 - (5) Names, addresses, and telephone numbers of the authorized representative.
 - (6) A signed copy of the admission agreement specified in Section 87868.
 - (7) Name, address and telephone number of physician, surgeon and dentist, and other medical and mental health providers, if any.
 - (8) Medical assessment, including ambulatory status.
 - (9) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance to the resident in meeting his/her necessary medical and dental needs.
 - (10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.
 - (11) Date of termination of services.
 - (12) An accounting of the resident's cash resources, personal property, and valuables entrusted to the licensee.
 - (13) The name, address, and telephone number of any person or agency responsible for the care of a resident, including, but not limited to, persons who have been granted durable power of attorney for the resident or conservators for the resident and/or his/her estate.

- (14) Weekly weight record.
- (15) Copy of the "DO NOT Resuscitate Order", provided the resident has agreed to and signed the order.
- (16) Copy of the Durable Power of Attorney for Health Care document signed by the resident.
- (c) All information and records obtained from or regarding the resident shall be confidential.
 - (1) The licensee shall be responsible for safeguarding the confidentiality of resident records.
 - (2) Except as specified in (d) below, or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.
- (d) All resident records shall be subject to reproduction by the Department upon demand during normal business hours.
 - (1) A resident's records shall also be open to inspection by the resident's authorized representative, if any.
- (e) The information specified in (b) above shall be updated as necessary to ensure the accuracy of the resident's record.
- (f) Original or photographic reproduction of all resident records shall be retained for at least three years following termination of service to the resident.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072, and 1568.08, Health and Safety Code.

Adopt Section 87872 to read:

87872 PERSONAL RIGHTS

87872

- (a) Each resident shall have personal rights which include, but are not limited to, the following:
- (1) To be accorded dignity in his/her personal relationships with staff and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings, and equipment to meet his/her needs.
 - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to interference with daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.
 - (4) To be informed, and to have his/her authorized representative, if any, informed by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the Department, and of information regarding confidentiality.
 - (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
 - (A) Attendance at religious services, in or outside the facility, shall be on a completely voluntary basis.
 - (6) To leave or depart the facility at any time.
 - (A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of residents.
 - (7) Not to be locked in any room, building, or facility premises by day or night.
 - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of residents provided the residents are able to exit the facility.
 - (B) The licensee shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only with the prior approval of the Department.

- (8) Not to be placed in any restraining device.
- (9) To receive or reject medical care, or health-related services.
- (10) To be informed of the facility's policy concerning family visits and other communication with residents.
- (11) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other residents and do not restrict availability of the telephone during emergencies.
 - (A) The licensee shall be permitted to require reimbursement from the resident or his/her authorized representative for long distance calls.
 - (B) The licensee shall be permitted to prohibit the making of long distance calls upon documentation that requested reimbursement for previous call(s) has not been received.
- (12) To mail and receive unopened correspondence in a prompt manner.
- (13) To receive assistance in exercising the right to vote.
- (14) To move from the facility.
- (b) All residents or their authorized representative(s), shall be personally advised of and given at admission a copy of the rights specified in (a)(1) through (15) above.
- (c) The information specified in (b) above including the visiting policy as stated in the admissions agreement shall be prominently posted in areas accessible to residents, their relatives and visitors. The posted information shall also include:
 - (1) Procedures for filing confidential complaints.
 - (2) A copy of the personal rights or, in lieu of a posted copy, instructions on how to obtain additional copies of these rights.
- (d) The licensee shall ensure that each resident is accorded the personal rights as specified in this section.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87873 to read:

87873

87873 TELEPHONES

(a) All facilities shall have telephone service on the premises.

(1) There shall be a telephone available for use by residents which may be a pay telephone.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87874 to read:

87874

87874 TRANSPORTATION

- (a) Only drivers licensed for the type of vehicle operated shall be permitted to transport residents.
- (b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.
- (c) Motor vehicles used to transport residents shall be maintained in a safe operating condition.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87876 to read:

87876

87876 FOOD SERVICE

(a) In all residential care facilities the following shall apply:

- (1) All food shall be nutritious, protected from contamination and of the quality and in the quantity necessary to meet the needs of the residents. Each meal shall include, at a minimum, the amount of food components as specified by Title 7, Code Federal Regulations, Part 226.20, Requirements for Meals, for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.
- (2) Where all food is provided by the facility, arrangements shall be made so that each resident has available at least three meals per day.
 - (A) Not more than 15 hours shall elapse between the third meal of one day and the first meal of the following day.
- (3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of (a) (1) above for all residents who, in their admission agreement, elect meal service.
- (4) Between meal nourishment or snacks shall be available for all residents unless limited by dietary restrictions prescribed by a physician.
- (5) Menus shall be in writing and shall be posted at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the residents or their authorized representatives and the Department upon request.
- (6) Modified diets prescribed by a resident's physician as a medical necessity shall be provided.
 - (A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.
- (7) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.
- (8) Where indicated, food shall be cut, chopped or ground to meet individual needs.

- (9) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code shall not be used. Milk shall be pasteurized.
- (10) Except upon written approval by the Department, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.
- (11) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.
- (12) If food is prepared off the facility premises, the following shall apply:
 - (A) The preparation source shall meet all applicable requirements for commercial food services.
 - (B) The facility shall have the equipment and staff necessary to receive and serve the food and for cleanup.
 - (C) The facility shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.
- (13) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (14) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.
- (15) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.
- (16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (17) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.
- (18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.

- (19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.
- (20) Each facility shall use a dishwasher to clean and sanitize all dishes and utensils used for eating and drinking and in the preparation of food and drink.
 - (A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.
 - (B) Bleach shall be added to rinse cycle to sanitize the dishes and utensils when the dishwashing machine temperature does not reach 165 degrees F (74 degrees C).
- (21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.
- (22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the residents.
- (23) Adaptive devices shall be provided for self-help in eating as needed by residents.
- (b) The Department shall have the authority to require the facility to provide written information, including menus, regarding the food purchased and used over a given period.
 - (1) The Department shall specify in writing the written information required from the licensee.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87877 to read:

87877 PERSONAL SERVICES (RESERVED)

87877

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87878 to read:

87878 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION

87878

(a) The licensee shall provide care and supervision as necessary to meet the resident's needs.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87879 to read:

87879 ACTIVITIES (RESERVED)

87879

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Article 7 to read:

Article 7. PHYSICAL ENVIRONMENT

Adopt Section 87886 to read:

87886 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES

87886

- (a) Prior to construction or alterations, all licensees shall notify the Department of the proposed change.
- (b) The Department shall have the authority to require that the licensee have a building inspection by a local building inspector if the Department suspects that a hazard to the residents' health and safety exists.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code.

Adopt Section 87887 to read:

87887 BUILDINGS AND GROUNDS

87887

- (a) The facility shall be clean, safe sanitary and in good repair at all times for the safety and well-being of residents, employees, volunteers and visitors.
 - (1) The licensee shall take measures to keep the facility free of flies and other insects.
 - (2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.
- (b) All residents shall be protected against hazards within the facility through provision of the following:
 - (1) Protective devices including but not limited to nonslip material on rugs.
- (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.
- (d) Bedrooms shall meet, at a minimum, the following requirements:
 - (1) Not more than two residents shall sleep in a bedroom.
 - (2) Securable storage space for personal items.
- (e) General permanent or portable storage space shall be available for storage of facility equipment and supplies.
 - (1) Facility equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this chapter.
- (f) All licensees serving residents who have physical handicaps, mental disorders, or developmental disabilities shall ensure the inaccessibility of swimming pools, wading pools, fish ponds or similar bodies of water through fencing, covering or other means when not in use.
 - (1) Licensees serving residents as specified in (f) above shall have at least a five-foot fence around swimming pools or shall have a pool covering inspected and approved by the Department. Fencing shall be so constructed that it does not obscure the pool from view, and is self-latching at the top of the gate.

- (2) Above ground pools shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking.
- (g) All in-ground pools, and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.
- (h) Disinfectants, cleaning solutions, poisons, firearms and other items which could pose a danger if readily available to residents shall be stored where inaccessible to residents.
 - (1) Storage areas for poisons, and firearms and other dangerous weapons shall be locked.
 - (2) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pins.
 - (A) Firing pins shall be stored and locked separately from firearms.
 - (3) Ammunition shall be stored and locked separately from firearms.
- (i) Medications shall be stored as specified in Sections 87915 and 87920.
- (j) The items specified in Subsection (h) above shall not be stored in food storage areas or in storage areas used by or for residents.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87888 to read:

87888 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES

87888

- (a) A comfortable temperature for residents shall be maintained at all times.
 - (1) The licensee shall maintain the temperature in rooms that residents occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).
 - (A) In areas of extreme heat the maximum shall be 30 degrees F (16.6 degrees C) less than the outside temperature.
 - (2) Nothing in this section shall prohibit residents from adjusting individual thermostatic controls.
- (b) All window screens shall be in good repair and be free of insects, dirt and other debris,
- (c) Fireplaces and open-faced heaters shall be made inaccessible to residents to ensure protection of the residents' safety.
- (d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the facility.
- (e) Faucets used by residents for personal care such as shaving and grooming shall deliver hot water.
 - (1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by residents to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).
 - (2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.
 - (3) All toilets, handwashing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids, and/or conveniences shall be provided in facilities accommodating physically handicapped residents who need such items.
- (f) Toilet, washbasin, bath and shower fixtures shall at a minimum meet the following requirements:
 - (1) At least one toilet and washbasin shall be provided for each six persons residing in the facility, including residents, family and personnel.
 - (2) At least one bathtub or shower shall be provided for each ten persons residing in the facility, including residents, family and facility personnel.

- (3) Toilets and bathrooms shall be located near residents bedrooms.
- (4) Individual privacy shall be provided in all toilet, bath and shower areas.
- (g) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.
 - (1) All containers, including movable bins, used for storage of solid wastes shall have tight-fitting covers kept on the containers; shall be in good repair, shall be leakproof and rodent-proof.
 - (2) Solid waste containers, including movable bins shall be emptied at least once per week or more often if necessary to comply with subsection (f) above.
 - (3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.
- (h) The licensee shall ensure provision to each resident of the following furniture, equipment and supplies necessary for personal care and maintenance of personal hygiene.
 - (1) An individual bed, except that couples shall be allowed to share one double or larger sized bed, maintained in good repair, and equipped with good bed springs, a clean mattress and pillow(s).
 - (A) Filling and covers for mattresses and pillows shall be flame retardant.
 - (B) No Residential Care Facility for the Chronically Ill shall have more beds for resident use than required for the maximum capacity approved by the Department.
 - (2) Bedroom furniture including, in addition to (1) above, for each resident, a chair, a night stand, and a lamp or lights necessary for reading.
 - (A) Two residents sharing a bedroom shall be permitted to share one night stand.
 - (3) Portable or permanent closets and drawer space in each bedroom to accommodate the resident's clothing and personal belongings.
 - (A) A minimum of two drawers or eight cubic feet (.2264 cubic meters) of drawer space, whichever is greater, shall be provided for each resident.
 - (4) Feminine napkins, nonmedicated soap, toilet paper, toothbrush, toothpaste, and comb.

(i) The licensee shall provide clean linen in good repair, including lightweight, warm blankets and bedspreads; top and bottom bed sheets; pillow cases; mattress pads; and bath towels, hand towels and washcloths.

(1) The use of common towels and washcloths shall be prohibited.

(2) All bed linens must be changed every four days or more frequently as needed.

(A) The quantity of linens shall be a minimum of 3 sets per bed to allow for frequent changing of beds.

(B) All beds shall have mattress covers when necessary.

(C) All bed pillows shall be washable and protected by covers.

(3) The licensee shall ensure that:

(A) Bleach and/or other disinfectants are available in sufficient supply and used for general cleaning and laundry.

(B) Disposable plastic gloves and other protective materials are available and used by staff for general cleaning to prevent the spread of communicable illnesses.

(j) If the facility operates its own laundry, necessary supplies shall be available and equipment shall be maintained in good repair.

(1) Residents who are able, and who so desire, shall be allowed to use at least one washing machine and iron for their personal laundry, provided that the equipment is of a type and in a location which can be safely used by the residents.

(A) If that washing machine is coin operated, residents on SSI/SSP shall be provided with coins or tokens and laundry supplies.

(B) The licensee shall be permitted to designate a safe location or locations, and/or times in which residents shall be permitted to iron.

(k) Emergency lighting, which shall include at a minimum working flashlights or other battery-powered lighting, shall be maintained and readily available in areas accessible to residents and staff.

(1) An open-flame type of light shall not be used.

(2) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.

(1) Facilities shall meet the following signal system requirements:

(1) In all facilities with a licensed capacity of 16 or more residents, and all facilities having separate floors or separate buildings without full-time staff there shall be a signal system which has the ability to meet the following requirements:

(A) Operation from each resident's living unit.

(B) Transmission of a visual and/or auditory signal to a central location, or production of an auditory signal at the resident's living unit which is loud enough to summon staff.

(C) Identification of the specific resident's living unit from which the signal originates.

(2) Facilities having more than one wing, floor or building shall be allowed to have a separate signal system in each component provided that each such system meets the criteria specified in (1)(A) through (C) above.

(m) The licensee shall provide and maintain necessary equipment and supplies.

(1) Such supplies shall include daily newspapers, current magazines and a variety of reading materials.

(2) Special equipment and supplies necessary to accommodate physically handicapped residents or other residents with special needs shall be provided.

(3) Recreational equipment and supplies shall be stored where they do not create a hazard to residents when not in use.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87889 to read:

87889 SAFETY AND SANITATION

87889

- (a) Contaminated and hazardous waste, such as soiled diapers, used needles and syringes, soiled surgical dressings, disposable wipes, gloves and other items and/or equipment used for the hygienic care and treatment of residents shall be disposed of by a hazardous waste company.
- (1) Needles and syringes shall be disposed of in a "container for sharps" provided by the hazardous waste company.
- (2) The collection of the waste shall occur at least twice a month or more often if needed.
- (3) Contaminated and hazardous waste shall be double bagged and stored in a locked bin/shed or other area.
- (4) The exterior of the storage bins/sheds or other area designated for storing the contaminated waste shall be clearly labeled "contaminated".

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87889.1 to read:

87889.1 ANIMALS AND PETS IN FACILITIES

87889.1

(a) Animals and pets shall be permitted in the facility under the following conditions:

- (1) Litter boxes shall not be kept in residents' bedrooms or bathrooms, kitchens or dining rooms.
- (2) Litter boxes shall be cleaned daily.
- (3) Residents shall not be allowed to clean the litter boxes.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Article 8 to read:

ARTICLE 8: MEDICAL AND HEALTH RELATED CARE

Adopt Section 87890 to read:

87890 ALLOWABLE CONDITIONS

87890

- (a) A licensee may accept or retain the following residents whose condition has been diagnosed as chronic and life threatening and who require different levels of care, except those conditions as specified in Section 87891:
- (1) Residents whose illness is in a state of remission.
 - (2) Residents whose illness is intensifying and causing a deterioration in their condition, provided they do not require inpatient care in an Acute Care Hospital as determined by the resident's physician.
 - (3) Residents whose condition has deteriorated to a point where death is imminent.
 - (4) Residents who have in addition to (a) above, other medical conditions, needs or require the use of medical equipment including, but not limited to, the following:
 - (A) Diabetes
 - (B) Colostomy
 - (C) Ileostomy
 - (D) Tracheotomy
 - (E) Gastrostomy
 - (F) Total Parenteral Nourishment
 - (G) Intravenous Therapy
 - (H) Wounds
 - (I) Dermal Ulcers
 - (J) Nasal Gastric Tube Feeding
 - (K) Indwelling Catheters
 - (L) Intermittent Catheterization
 - (M) External Catheters

- (N) Incontinence
- (O) Oxygen Administration
- (P) Dementia
- (Q) Other medical conditions which may confine the residents to bed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.01, 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87891 to read:

87891 PROHIBITED CONDITIONS

87891

(a) The licensee shall not accept or retain a resident who:

- (1) Requires in-patient care in an acute hospital.
- (2) Requires treatment and/or observation by the appropriately skilled professionals for more than eight hours per day in the facility.
- (3) Has active tuberculosis or any other reportable disease as specified in Title 17, California Code of Regulations, Sections 2500, 2502, and 2503.
- (4) Requires 24-hour intravenous therapy.
- (5) Has a psychiatric condition(s) and is exhibiting behaviors which could present a danger to self or others.
- (6) Has a stage III or greater decubitus ulcer.
- (7) Requires renal dialysis treatment in the facility.
- (8) Requires life support systems, including, but not limited to, ventilators and respirators.
- (9) Has a diagnosis that does not include one denoting a chronic life-threatening illness.
- (10) Has a primary diagnosis of Alzheimers.
- (11) Has a primary diagnosis of Parkinson's Disease.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.01, 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87893 to read:

87893 GENERAL REQUIREMENTS FOR ALLOWABLE CONDITIONS

87893

- (a) The licensee shall complete and maintain a current, written record of the medical care for each resident that includes, but is not limited to, the following:
- (1) Documentation from the physician of the following:
 - (A) Condition(s) which requires medical services;
 - (B) Treatment ordered;
 - (C) Resident's ability to perform the required medical procedure; and
 - (D) The classification of the appropriately skilled professional who will perform the medical procedure, if the resident needs assistance.
 - (2) Name, address and telephone number of vendors and appropriately skilled professionals providing services.
 - (3) Emergency contacts.
- (b) The medical record specified in (a) above shall be available to the facility personnel who are involved in the care of the resident.
- (c) In addition to Section 87865 (g), the facility personnel shall have knowledge and the ability to recognize and respond to problems and shall contact the physician, appropriately skilled professional, and/or vendor as necessary.
- (d) In addition to Section 87865 (g), the facility personnel shall monitor the ability of the resident to provide self-care for the allowable health condition and document any change in that ability.
- (e) The licensee shall ensure that services are delivered and that the Registered Nurse Case Manager is notified of any service delivery problems.
- (f) Disposable plastic gloves and other protective garments shall be available to and be used by facility personnel when providing hands-on care to residents, handling contaminated waste and cleaning residential units.
- (1) These disposable items shall be discarded after each use, as specified in Section 87889 (a).
- (g) Bleach and/or other disinfecting agents recommended by the county health department or the Department of Health Services, Office of AIDS shall be available and used to sanitize beds, bedding, equipment, toilets and floors.

- (h) The duties established by this section shall not infringe on the right of a resident to receive or reject medical care or services as allowed in Section 87872.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02, 1568.072 and 1568.08, Health and Safety Code.

Adopt Section 87894 to read:

87894 RESIDENT MEDICAL ASSESSMENTS

87894

- (a) Prior to or within 30 days of the acceptance of a resident, the licensee shall obtain a written medical assessment of the resident which enables the licensee to determine his/her ability to provide the necessary health-related services required by to the resident's medical condition.
- (1) Such assessment shall be performed by, or under the supervision of, a licensed physician, and shall not be more than three months old when obtained.
- (2) If the facility is unable to obtain the resident's medical assessment prior to placement, the licensee shall ensure that a Registered Nurse Case Manager completes the following before the person is placed:
- (A) A review of the person's health history to determine his/her ambulatory status.
- (B) A determination as to whether the person requires immediate health care which would preclude placement.
1. If it is determined that the person requires immediate health care, the licensee shall ensure that the person is referred to the appropriate health facility and that a medical assessment is performed.
- (b) The medical assessment shall provide the following:
- (1) A record of any infectious or contagious disease which would preclude care of the person by the licensee.
- (2) A test for tuberculosis by:
- (A) Chest X-ray; or
- (B) Mantoux Test.
- (3) A record of all prescriptions and over-the-counter medications being taken by the resident.
- (4) Identification of the resident's special medical problems.
- (5) Ambulatory status of the resident.
- (c) The Department shall have the authority to require the licensee to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a resident's placement.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.08, Health and Safety Code.

Adopt Section 87895 to read:

87895 FUNCTIONAL CAPABILITIES

87895

- (a) The licensee shall ensure that an assessment of the person's functional capabilities is completed, including activities of daily living, which include, but is not be limited to the following:
- (1) Bathing, including need for assistance:
 - (A) In getting in and out of the bath/shower.
 - (B) In bathing one or more parts of his/her body.
 - (2) Dressing and grooming, including the need for partial or complete assistance.
 - (3) Toileting, including the need for:
 - (A) Assistive devices.
 - (B) Assistance of another person.
 - (4) Transferring, including the need for assistance in moving in and out of a bed or chair.
 - (5) Continence, including:
 - (A) Bowel and bladder control.
 - (B) Whether assistive devices such as a catheter are used.
 - (6) Eating, including the need for:
 - (A) Adaptive devices.
 - (B) Assistance from another person.
 - (7) Physical condition, including:
 - (A) Visual impairment.
 - (B) Hearing impairment.

- (C) Speech impairment.
- (D) Walking with or without equipment or other assistance.
- (E) Dietary limitations.
- (F) Medical history and problems.
- (G) Need for prescribed medications.
- (8) Mental condition, including:
 - (A) Potential for violence.
 - (B) Potential for wandering.
 - (C) Level of confusion, if any.
 - (D) Ability to manage his/her own cash resources.
 - (E) Suicidal risk.
 - (F) Depression.
- (9) Substance abuse history.
- (b) The licensee shall ensure the provisions of service for residents, as required.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.072 and 1568.08, Health and Safety Code.

Adopt Section 87896 to read:

87896 RESIDENT INDIVIDUAL SERVICES PLAN/TEAM

87896

- (a) The licensee shall ensure that there is an Individual Services Plan for each resident, developed by the Individual Services Team, as specified in Subsection (b).
 - (1) The licensee shall ensure that there shall be a Registered Nurse Case Manager who is responsible for the coordination and/or the provisions of the services specified in the Individual Services Plan.
- (b) In addition to the Registered Nurse Case Manager, the following persons shall constitute the Individual Services Team and shall be involved in the development and updating of the resident's Individual Services Plan.
 - (1) The resident and/or his/her authorized representative.
 - (2) The resident's physician.
 - (3) Facility administrator/designee.
 - (4) Facility house manager.
 - (5) Direct care personnel.
 - (6) Social worker/placement worker.
 - (7) Pharmacist, if needed.
 - (8) Others, as deemed necessary.
- (c) The plan shall include, but not be limited to:
 - (1) Current health status.
 - (2) Current mental status.
 - (3) Current functional limitations.
 - (4) Current medications.
 - (5) Medical treatment/therapy.
 - (6) Specific services needed.
 - (7) Agencies or persons assigned to carry out services.
 - (8) "DO NOT Resuscitate Order".

- (d) The plan shall be updated every three months or more frequently as the resident's condition warrants.
- (e) The Registered Nurse Case Manager shall document all contacts made with the Individual Services Team members.
- (1) This documentation shall be maintained in the resident file and shall be made available to the Department upon request.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02, 1568.072 and 1568.08, Health and Safety Code.

Adopt Section 87896.1 to read:

87896.1 RESIDENT SERVICES

87896.1

- (a) The licensee shall ensure that, in addition to the services required in the Resident's Individual Services Plan, each resident's weight shall be taken and documented in the resident's record, as specified in Section 87870:
 - (b) The licensee shall ensure that any resident who has to be transferred to an acute hospital or transported to the emergency room of an acute hospital is either:
 - (1) Accompanied by a facility staff person,
- OR
- (2) Sent with all pertinent information which will ensure continuity of care.
 - (c) In addition to Subsection (b) (2) above, all pertinent information shall be sent with the resident to all medical, dental, therapeutic appointments and hospital transfers to ensure continuity of care.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Adopt Section 87897 to read:

87897 OXYGEN ADMINISTRATION

87897

(a) The licensee shall be permitted to accept or retain a resident who requires the use of oxygen administration, under the following circumstances:

- (1) The resident is mentally and physically capable of operating the equipment, is able to determine his/her need for oxygen, and is able to administer it him/herself.

OR

- (2) The administration of the oxygen is under the supervision of an appropriately skilled professional.

(b) In addition to Section 87878, the licensee shall be responsible for the following:

- (1) Monitoring the resident's ongoing ability to operate the equipment in accordance with the physician's orders.
- (2) Ensuring that oxygen administration is under the supervision of an appropriately skilled professional, if the resident requires assistance.
- (3) Ensuring that the use of oxygen equipment meets the following requirements:
- (A) A report shall be made in writing to the local fire jurisdiction that oxygen is in use at the facility.
- (B) "No Smoking-Oxygen in Use" signs shall be posted in the appropriate areas.
- (C) Smoking shall be prohibited where oxygen is in use.
- (D) All electrical equipment shall be checked for defects which may cause sparks.
- (E) Oxygen tanks shall be secured in a stand or to the wall.
- (F) Oxygen from a portable source shall be used by residents when they are outside of their rooms.
- (G) Oxygen equipment shall be operable.

- (H) Oxygen equipment shall be removed from the facility when the physician has ordered the discontinuance of its use by the resident.
 - (I) A determination shall be made that the room size can safely accommodate oxygen equipment.
 - (J) Facility personnel shall have knowledge of and the ability to operate the oxygen equipment.
- (c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87898 to read:

87898 COLOSTOMY/ILEOSTOMY

87898

(a) The licensee shall be permitted to accept or retain a resident who has a colostomy or ileostomy under the following circumstances:

(1) The resident is mentally and physically capable of providing all routine care for his/her ostomy, and the physician/surgeon has documented that the ostomy is completely healed.

OR

(2) Assistance in the care of the ostomy is provided by an appropriately skilled professional.

(b) In addition, the licensee shall be responsible for the following:

(1) Ensuring that ostomy care is provided by an appropriately skilled professional.

(2) Ensuring that used bags are discarded as specified in Section 87889.

(3) Ensuring that privacy is afforded when ostomy care is being provided.

(c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87899 to read:

87899 ENEMA AND/OR SUPPOSITORY AND FECAL IMPACTION REMOVAL

87899

- (a) The licensee shall be permitted to accept or retain a resident who requires manual fecal impaction removal, enemas, or use of suppositories under the following circumstances:
- (1) The resident is capable of self-care.
 - (2) Manual fecal impaction, enemas, and/or suppositories shall be permitted if administered according to physician's orders by either the resident or an appropriately skilled professional.
- (b) In addition to Section 87878, the licensee shall be responsible for ensuring that:
- (1) The administration of enemas or suppositories or manual fecal impaction removal is performed by an appropriately skilled professional, if the resident requires assistance.
 - (2) Privacy is afforded when care is being provided.
- (c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87900 to read:

87900 INDWELLING URINARY CATHETER/CATHETER
PROCEDURE/INTERMITTENT CATHETERIZATION

87900

- (a) The licensee shall be permitted to accept or retain a resident who requires the use of an indwelling catheter and/or intermittent catheterization under the following circumstances:
- (1) The resident is physically and mentally capable of caring for all aspects of the condition except insertion and irrigation.
- OR
- (2) The care is performed by the appropriately skilled professional.
- (A) Irrigation shall only be performed by the appropriately skilled professional in accordance with the physician's orders.
- (B) A catheter shall only be inserted and removed by an appropriately skilled professional in accordance with physician's orders.
- (b) In addition to Section 87878, the licensee shall be responsible for ensuring that:
- (1) Insertion and irrigation of the catheter are performed by an appropriately skilled professional.
- (2) The bag and tubing are changed by an appropriately skilled professional, if the resident requires assistance.
- (A) The bag may be emptied by facility staff who receive supervision and instruction from the appropriately skilled professional.
- (B) There shall be written documentation by the appropriately skilled professional outlining the instruction of the procedures to facility staff.
- (3) Waste materials shall be disposed of as specified in Section 87889.
- (4) Privacy is afforded when care is provided.
- (c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87901 to read:

87901 EXTERNAL CATHETERS

87901

(a) The licensee shall be permitted to accept or retain a resident who requires the use of an external catheter under the following circumstances:

(1) The resident is physically and mentally capable of self care.

OR

(2) The direct care staff have been instructed by the appropriately skilled professional in the application and care of the appliance.

(b) In addition to Section 87878, the licensee shall be responsible for ensuring that:

(1) Waste materials are disposed of as specified in Section 87889.

(2) Privacy is afforded when care is provided.

(c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87902 to read:

87902 MANAGED BOWEL AND/OR BLADDER INCONTINENCE

87902

- (a) The licensee shall be permitted to accept or retain a resident who has a manageable bowel and/or bladder incontinence condition if the condition can be managed by:
- (1) Self-care by the resident.
 - (2) A program of scheduled toileting at regular intervals.
 - (3) The use of incontinent care products to keep the resident clean and dry at all times.
- (b) In addition, the licensee shall be responsible for ensuring that:
- (1) Residents who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.
 - (2) Incontinent residents are checked during those periods of time when they are known to be incontinent, including during the night.
 - (3) Incontinent residents are kept clean and dry.
 - (4) Privacy is afforded when care is being provided.
 - (5) Fluids are not withheld to control incontinence.
- (c) The direct care staff shall document all aspects of care given to the resident in the resident's file.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87903 to read:

87903 DIABETES

87903

(a) The licensee shall be permitted to accept or retain a resident who has diabetes under the following circumstances:

(1) The resident is physically and mentally capable of self-care, which includes:

(A) The ability to perform his/her own glucose testing of blood or urine specimens; and

(B) The ability to administer his/her own medication, orally or by injection.

OR

(2) All of the procedures specified in (1) above are performed by the appropriately skilled professional.

(b) In addition, the licensee shall be responsible for the following:

(1) Assisting residents with self-administered medication as specified in Section 87916.

(2) Ensuring that sufficient amounts of medicines, testing equipment, syringes, needles and other supplies are maintained and stored in the facility, as specified in Section 87915.

(3) Ensuring that syringes and needles are disposed of, as specified in Section 87889.

(4) Providing modified diets as prescribed by the resident's physician, as specified in Section 87876 (a) (6). Substitutions shall be made by the facility Nutritionist or in accordance with the recognized food exchange recommendations contained in the current publication "Exchange Lists For Meal Planning", published by the American Diabetes Association, Inc. and the American Dietetic Association.

(c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87904 to read:

87904 INJECTIONS

87904

- (a) The licensee shall be permitted to accept or retain a resident who requires intravenous, intramuscular, subcutaneous, or intradermal injections under the following circumstances:
- (1) The resident is physically and mentally capable of administering his/her own injections; or
 - (2) The resident's injections are administered by the appropriately skilled professional.
- (b) In addition, licensees who admit or retain residents who require injections shall be responsible for ensuring that:
- (1) Injections are administered by the appropriately skilled professional, if the resident requires assistance.
 - (2) Sufficient amounts of medicines, test equipment, syringes, needles and other supplies are maintained in the facility and are stored properly.
 - (3) Syringes and needles are disposed of as specified in Section 87889.
- (c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87905 to read:

87905 WOUNDS

87905

- (a) The licensee shall be permitted to accept or retain a resident who has a wound under the following circumstances:
 - (1) When care is performed by or under the supervision of the appropriately skilled professional.
 - (2) If the wound becomes infected, all aspects of care must be performed by the appropriately skilled professional.
 - (3) For residents with Stage I or II decubitus ulcer, the condition must be diagnosed by a physician and care for the decubitus ulcer must be given by the appropriately skilled professional.
- (b) The appropriately skilled professional shall document in the resident's file all aspects of care performed.
- (c) All used dressing shall be disposed of as specified in Section 87889.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87906 to read:

87906 TRANSFER DEPENDENCY

87906

(a) The licensee shall be permitted to accept or retain a resident who cannot independently transfer to and from bed and/or chair, under the following circumstances:

- (1) An appropriate fire clearance is obtained.
- (2) Sufficient direct care staff are available to meet the special needs of the resident.
- (3) The local fire department is notified by the licensee and the dates and times of these contacts are documented.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87907 to read:

87907 DEMENTIA

87907

- (a) The licensee shall be permitted to accept or retain a resident who has been diagnosed as having "dementia", under the following circumstances:
- (1) The resident does not present a danger to him/herself.
 - (2) The resident's behavior does not pose a threat or danger to other residents or the facility staff.
- (b) The licensee shall ensure that direct care staff who are giving care to these residents have knowledge of the signs, symptoms and effects of dementia upon the resident's behavior.
- (c) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87908 to read:

87908

87908 TRACHEOTOMY

(a) The licensee shall be permitted to accept or retain a resident who has had a tracheotomy tube inserted, under the following circumstances:

(1) The resident is physically and mentally able to perform all aspects of care.

OR

(2) All aspects of care of the tracheotomy, including suctioning, are performed by the appropriately skilled professional.

(b) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87909 to read:

87909 TOTAL PARENTERAL NOURISHMENT

87909

(a) The licensee shall be permitted to accept or retain a resident who receives nourishment through a Hickman Tube (or equivalent), under the following circumstances:

(1) The resident is physically and mentally able to perform all aspects of the procedure him/herself.

OR

(2) All aspects of the feeding and tube care are performed by the appropriately skilled professional.

(A) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

(b) The facility's Nutritionist shall document the diet ordered by the physician and the instructions given to the facility personnel and the Nutritionist's impressions of the resident's condition.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87910 to read:

87910 GASTROSTOMY TUBE FEEDING

87910

(a) The licensee shall be permitted to accept or retain a resident who requires feeding through a gastrostomy tube, under the following circumstances:

(1) The resident is physically and mentally able to perform all aspects of the procedure him/herself.

OR

(2) All aspects of the feeding and tube care are performed by the appropriately skilled professional.

(A) The appropriately skilled professional shall document in the resident's file all aspects of care performed.

(b) The facility's Nutritionist shall document the diet ordered by the physician and the instructions given to the facility personnel.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87911 to read:

87911 NASO-GASTRIC TUBE FEEDING

87911

- (a) The licensee shall be permitted to accept or retain a resident who requires feeding through a naso gastric tube, under the following circumstances:
- (1) The resident is physically and mentally able to perform all aspects of the procedure him/herself.
- OR
- (2) All aspects of the feeding and tube care are performed by the appropriately skilled professional.
- (A) The appropriately skilled professional shall document in the resident's file all aspects of care performed.
- (b) The facility's Nutritionist shall document the diet ordered by the physician and the instructions given to the facility personnel.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87912 to read:

87912 CARE OF RESIDENTS CONFINED TO BED

87912

- (a) The licensee shall be permitted to accept or retain a resident who is confined to bed, if the requirements of (a)(1) and (2) below are met.
- (1) All licensees shall ensure that the equipment and appliances are available to assist and protect the residents who are confined to bed.
- (2) The equipment and appliances shall include, but not be limited to:
- (A) An egg-crate mattress (or equivalent to relieve pressure).
 - (B) Heel and elbow protectors.
 - (C) Partial bed rails.
 - (D) Screens and/or curtains to ensure privacy if the resident shares a room with another resident.
 - (E) Over-bed table.
 - (F) Bedside commode.
 - (G) Urinal.
 - (H) Bed Pan.
 - (I) Wheelchair.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87913 to read:

87913 SMOKING

87913

(a) The licensee shall prohibit smoking in the facility, except in a designated area.

(1) This prohibition shall be applicable to both residents and facility personnel.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87914 to read:

87914 MEDICATIONS

87914

- (a) In facilities which accept or retain residents who require assistance with the taking of medications, the following shall apply.
- (b) Assistance with medications shall be given by:
 - (1) The licensee.
 - (2) The facility administrator.
 - (3) The facility house manager.
 - (4) Paid direct care staff.
- (c) Administration of medications shall only be performed by an appropriately skilled professional.
- (d) Direct care staff assisting with medications shall have knowledge of the medications and possible side effects and on-the-job training in the facility's medications practices.
- (e) A current medication reference shall be maintained at the facility which describes resident's medications and their side effects.
 - (1) This reference shall be made available for use by direct care staff .
- (f) The licensee may arrange with the pharmacy to have the medication prepackaged under the following conditions:
 - (1) There is a written contract with the pharmacy to accept the responsibility for prepackaging the medications.
 - (2) The unit or multi-dose containers display all the information as required in Section 87915(a)(5).
 - (3) There is written information from the pharmacy outlining the plan for filling after hours prescriptions, handling of new prescriptions, PRN medications and delivery times.
 - (4) The pharmacy gives training to direct care staff as required.
 - (5) The resident has the right to use the pharmacy of his/her choice.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87915 to read:

87915 STORAGE OF MEDICATIONS

87915

(a) The following requirements shall apply to medications which are centrally stored:

- (1) Medications shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.
 - (A) Keys used to secure the medications shall not be accessible to residents.
 - (B) Medications which require refrigeration shall be stored in a locked container.
- (2) All medications shall be labeled and maintained in compliance with label instructions and state and federal laws.
- (3) No person other than the dispensing pharmacist shall alter a prescription label.
- (4) Each resident's medication shall be stored in its originally received container.
- (5) The licensee shall ensure that each medication container includes the following information and shall maintain for each resident a record of centrally stored prescription medications which are to be retained for at least three years:
 - (A) Name and address of pharmacy.
 - (B) Prescribing physician's name.
 - (C) Prescription number.
 - (D) Resident's name.
 - (E) Date prescription was dispensed.
 - (F) Drug name (generic and manufacturer).
 - (G) Strength and number of pills dispensed.
 - (H) Directions for taking.

- (I) Refill number.
 - (J) Expiration date.
 - (K) Dietary warnings or special instructions.
- (b) Sample medications, if given by the prescribing physician, may be used, providing there is a label which contains the information as required in (6) above, excluding items (A), (C), (I), and (J).
- (c) A new label shall be prepared by the dispensing pharmacist when there is a change in the originally prescribed medication.
- (d) Stock bottles of over-the-counter medications shall be used under the following conditions:
 - (1) There is a written physician's order for the medication indicating:
 - (A) The name of the resident.
 - (B) The dose to be given.
 - (C) The number of dosages allowed in a 24-hour period.
 - (D) The reason for the medication.
 - (E) The manufacturer's label is included on the stock bottle.
 - (2) This documentation shall be made available to facility personnel who assist with the medications.
 - (3) The doctor's order shall be maintained in the resident's file.
- (e) Medications discontinued by the physician for a period of time not to exceed three months, may be held by the facility and shall be centrally stored under the following conditions:
 - (1) There is a written order from the physician to HOLD the medications.
 - (2) The written order is noted in the Resident's Individual Services Plan.
 - (3) A piece of adhesive tape is placed around and over the top of the medication container and is marked with the word "HOLD" and the date of the "HOLD" order.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87916 to read:

87916

87916 SELF-ADMINISTERED MEDICATIONS

- (a) Residents who are physically and mentally able to be responsible for their own medications shall be permitted to do so under the following circumstances:
- (1) All members of the Individual Services Team are in agreement.
 - (2) The resident's Individual Services Plan includes a statement that the resident is capable of self administration of medication.
 - (3) The licensee provides the resident with a locked container in which to store the medications.
 - (4) There is more than one key to the container. One key shall be given to the resident and the others kept by direct care staff.
- (b) The licensee shall consider the safety of all residents in the facility when making a decision regarding self-administered medications.
- (c) There shall be a written agreement between the licensee and the resident that he/she will self-administer the medication. A copy of this agreement shall be kept in the resident's file.
- (1) The agreement shall state who will be responsible for the reordering of such medications.
 - (2) Direct care staff shall notify the physician and the Registered Nurse Case Manager of any change in the resident's capability to self-administer medications.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87918 to read:

87918 MEDICATION PROCEDURES

87918

- (a) The appropriately skilled professional shall not pre-pour medication more than 12 hours prior to being taken by the resident.
- (b) Pre-poured medications shall be stored in a locked area.
- (c) The name of the resident shall be on each medication cup and/or other utensil used in the distribution of medications.
- (d) Direct care staff shall observe the taking of the medication by the resident.
- (e) No resident shall be forced to take any medication.
- (f) Medication shall not be disguised in food or liquid without the resident's knowledge and permission.
- (g) The appropriately skilled professional shall not give more medication than prescribed or make any decisions to withhold medications.
 - (1) When the resident refuses medication, it shall be documented on the resident's medication record and the prescribing physician and the Registered Nurse Case Manager shall be contacted.
- (h) All medication side effects observed by the facility personnel or reported to the personnel by residents, their authorized representative, significant other, relative, or friend shall be reported to the physician immediately.
 - (1) There shall be documentation of the date and time the report is made to the physician.
 - (2) There shall be documentation of the side effects noted.
 - (3) There shall be documentation reflecting the continued monitoring of the resident's condition until stabilized.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87919 to read:

87919

87919 MEDICATION DOCUMENTATION

- (a) The licensee shall ensure the maintenance, for each resident, of a record of centrally stored medications other than scheduled and controlled drugs/medications which is retained for at least three years and includes the following:
- (1) The name of the resident for whom the medication is prescribed.
 - (2) The name of the prescribing physician.
 - (3) The medication name, strength and quantity.
 - (4) The date filled.
 - (5) The prescription number and the name of the issuing pharmacy.
 - (6) Expiration date.
 - (7) Number of refills.
- (b) A separate medication record shall be maintained in the facility for each resident for a period of three years. This record shall contain, but not be limited to, the following information:
- (1) Resident's name.
 - (2) Medication name.
 - (3) Dose.
 - (4) Time and date medications are taken.
 - (5) Side effects noted.
 - (6) The names and initials of direct care staff assisting with medications.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87920 to read:

87920 SCHEDULED AND CONTROLLED DRUGS/MEDICATIONS

87920

(a) For medications/drugs determined by the Drug Enforcement Administration to be in the categories of "Scheduled or Controlled", the following shall apply:

- (1) The licensee shall be responsible for obtaining a list from the pharmacist of the scheduled and/or controlled drugs in use in the facility.
- (2) All such drugs/medications shall be centrally stored.
- (3) All such drugs shall be kept in a locked container inside a safe locked place.
- (4) There shall be one key only for the locked container which is held by the administrator or designated person who is on the premises at the time.
- (5) At the change of shift the incoming staff person shall count the medications/drugs with the outgoing staff person and obtain the key for the locked medication.
- (6) There shall be a separate medication record maintained regarding the giving of the medication/drug which shall contain:
 - (A) Name of the resident.
 - (B) Name of medication/drug, strength and dosage.
 - (C) Prescribing physician.
 - (D) Dispensing pharmacist.
 - (E) Number of pills dispensed.
 - (F) Time and date medication/drug was taken.
 - (G) Results of pain medication/drug.
 - (H) Side effects, if any.

(b) Copies of all documents pertaining to scheduled and controlled drugs/medications shall be maintained in the resident's file for three years.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87920.1 to read:

87920.1 DISPOSAL OF SCHEDULED AND CONTROLLED DRUGS/MEDICATIONS

87920.1

- (a) There shall be written instructions regarding the disposition of scheduled and controlled drugs/medication under the following conditions:
- (1) The resident's physician orders that the resident discontinue taking the medications.
 - (2) The resident's facility placement is terminated.
- (b) The licensee shall have the disposal instructions reviewed and approved by the pharmacist.
- (c) The following instructions shall be carried out by the residents' Registered Nurse Case Manager and the facility administrator or facility manager.
- (1) Both parties shall sign the required form (LIC 602 (6/88)).
 - (2) Copies of all documents pertaining to the disposition of scheduled and controlled drugs/medications shall be maintained in the resident's file for three years.

OR

- (d) The Registered Nurse Case Manager, facility administrator or facility manager shall, under the direction of the pharmacy, send the drugs to the Drug Enforcement Administration.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87921 to read:

87921 PRN MEDICATIONS

87921

(a) The licensee shall be permitted to accept or retain a resident who requires PRN medications (as needed medications) including prescription or nonprescription medications under one of the following circumstances:

(1) The resident is able to determine his/her own need for the PRN medication.

OR

(2) There is a Registered Nurse or a Licensed Vocational Nurse on the facility premise and available to make the determination for the PRN medication if the resident cannot determine his/her own need prior to each dose being taken by the resident.

OR

(3) A physician is contacted to make the determination for the PRN medication if the resident cannot determine his/her own need prior to each dose being taken by the resident.

(b) There shall be written detailed instructions on the prescription label for all PRN medications, including the symptoms which might require the use of the medication, the exact dose, exact time frames between doses and the maximum dosage to be taken in a 24-hour period.

(c) In addition to Section 87878, if a resident cannot determine his/her own need for a PRN medication, the licensee shall be responsible for the following:

(1) Documenting date and time of the contacts with the physician.

(2) Maintaining a record that indicates the name of the PRN medication and the date and time the PRN medication was taken and the resident's response.

OR

(3) When the determination regarding the PRN medication is made by the Registered Nurse or Licensed Vocational Nurse who is on the premises, there shall be documentation by the appropriately skilled professional regarding:

(A) Date and time the medication was administered.

(B) Effects of medication.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87922 to read:

87922

87922 DISPOSAL OF ROUTINE PRESCRIPTION MEDICATIONS

(a) Prescription medications which are not taken with the resident upon termination of placement, or which are not to be retained shall be destroyed by the facility administrator and the facility manager.

(1) Both shall sign a record, to be retained for at least three years, which lists the following:

(A) Name of the resident.

(B) The prescription number and the name of the pharmacy.

(C) The medication name, strength and quantity destroyed.

(D) The date of destruction.

(E) Method of destruction.

(2) Signed documentation by the pharmacy shall be on file in the facility when prepackaged medication is returned by the facility.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87923 to read:

87923 FIRST AID REQUIREMENTS

87923

- (a) All direct care staff and the facility manager shall have first aid training from persons qualified by agencies including, but not limited to, the American Red Cross.
- (1) A copy of the current First Aid card shall be maintained in the personnel record.
- (b) First Aid supplies shall be maintained and be readily available for use by all staff.
- (c) First Aid supplies shall include, but not be limited to, the following:
 - (1) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.
 - (2) Sterile first aid dressings.
 - (3) Bandages or roller bandages.
 - (4) Adhesive tape.
 - (5) Scissors.
 - (6) Tweezers.
 - (7) Antiseptic Solution.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

Adopt Section 87924 to read:

87924 DO NOT RESUSCITATE ORDER

87924

- (a) A licensee shall not be required to accept or retain a resident who has or requests a Do Not Resuscitate Order.
- (b) All of the following conditions shall be met in order for a licensee to ensure that the Do Not Resuscitate Order is implemented:
 - (1) The resident or the individual who holds Durable Power of Attorney for Health Care of the resident has signed and dated a Do Not Resuscitate Directive.
 - (A) The resident or the individual who holds Durable Power of Attorney for Health Care of the resident shall have the right to rescind the Do Not Resuscitate Directive.
 - 1. The rescinding statement may be given either verbally or in writing. For verbal rescinding statements, the licensee shall ensure that the recission is documented immediately in the resident's record.
 - 2. Effective immediately upon the rescinding of the Do not Resuscitate Directive, the Do Not Resuscitate Order shall no longer be applicable.
 - 3. The licensee shall ensure that the resident's primary care physician is contacted immediately to rescind the Do Not Resuscitate Order and the contact is documented in the resident's record.
 - (2) A standing Do Not Resuscitate Order is signed and dated by the resident's primary care physician.
 - (3) The appropriately skilled professional is present to carry out the Do Not Resuscitate Order.
 - (A) For the purpose of this subsection, the appropriately skilled professional is limited to an M.D., R.N., L.V.N., or Nurse Practitioner.
 - (B) The licensee shall ensure that the appropriately skilled professional documents all factual and medical aspects pertaining to the enactment of the Do Not Resuscitate Order.
- (c) The licensee shall ensure that emergency medical care is summoned immediately when a resident stops breathing and any of the conditions specified in (b) above are not met.
- (d) The licensee shall ensure that contacts with emergency medical care providers as specified in (c) above are documented in the resident's record.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

EMERGENCY NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 1990)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-91-0219-14	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 91-0530-01E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1991 MAY 30 AM 11:32

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING

JUN 10 1991

Office of Administrative Law

FILED
In the office of the Secretary of State
of the State of California

JUN 10 1991

At 4:13 o'clock P.M.
MARCH FONG EU, Secretary of State
By *[Signature]*
Deputy Secretary of State

AGENCY State Department of Social Services	AGENCY FILE NUMBER (If any) RDB# 0191-01
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	
	AMEND	40-103, 40-115, 40-121, 40-125, 40-126, 40-171, 44-207, 44-315, 44-352, and 44-402
TITLE(S) MPP	REPEAL	

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> Effective other (Specify) August 1, 1991
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON

Jim Rhoads, Assistant Bureau Chief, Regulations Development Bureau	TELEPHONE NUMBER (916) 445-0313
--------------------------------------------------------------------	------------------------------------

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

[Signature]

TYPED NAME AND TITLE OF SIGNATORY

Lonnie Carlson, Interim Director

DATE

5-29-91

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 40-103.4 to read:

40-103 DEFINITIONS AND DESIGNATIONS - GENERAL (Continued)

40-103

.4 Applications for Aid

An application is a request for aid in writing made to the county welfare department on the ~~CA-1~~ SAWS 1 (Rev. 9/90) either by the applicant or on his or her behalf. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(1)(ii) and Welfare and Institutions Code Section 11056.

Amend Section 40-115.212 to read:

40-115 THE APPLICATION PROCESS (Continued)

40-115

.2 Steps in the Application Process

.21 Discussion of Circumstances Leading to Application (Continued)

.212 If the applicant indicates on the ~~CA~~ 1 SAWS 1 (Rev. 9/90) that he/she is in immediate need or indicates at any time during the application process that he/she is in an emergency situation where his/her resources are insufficient to meet the cost of the emergency situation, the county at that time shall make a determination of whether immediate need exists. (See Section 40-129, Immediate Need.) "Applicants" under this section include those who do not need to submit an application under Section 40-121.3.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(1)(ii) and Welfare and Institutions Code Section 11056.

Amend Section 40-121.3 to read:

40-121 COMPLETING THE APPLICATION (Continued)

40-121

.3 The Application Form

The application is recorded on the form ~~SA~~ 1
SAWS 1 (Rev. 9/90). A copy of the completed
application shall be given to the applicant at the
time he/she applies. An application shall not be
required for:

~~.31~~

~~A request for restoration of aid~~

.31

(Reserved)

.32

(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(1)(ii) and Welfare and Institutions Code Section 11056.

Amend Section 40-125 title to read:

40-125 ~~PROCESSING APPLICATIONS/~~ REAPPLICATIONS, ~~AND~~ RESTORATIONS, AND
COUNTY OF RESPONSIBILITY (Continued)

40-125

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11349, Government Code; and Sections 10554 and 11023.5,
Welfare and Institutions Code.

Amend Section 40-126 (title) and Section 40-126.1, and adopt Sections 40-126.3 et seq. to read:

40-126 ~~PROMPTNESS REQUIREMENT~~ PROCESSING APPLICATIONS

40-126

.1 Promptness Requirement

The determination of eligibility, including the gathering of any necessary evidence, shall be completed promptly. One of the following must be mailed within 45 calendar days starting with the first day after the filing of the application: ~~An~~ aid payment, a notice of denial, or a notice that the applicant is eligible.

.~~2~~11 Inability to Complete the Determination of Eligibility

Inability to complete the determination of eligibility within the 45-day period shall not be a basis for denying the application unless the delay is caused by the refusal of the applicant to participate in the gathering of evidence in accordance with Section 40-157. (See Section 40-171.11.) The specified time limit may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the agency, in which instances the case record shows the cause for delay. These instances include:

.~~2~~111

(Continued)

.~~2~~112

(Continued)

.~~2~~113

(Continued)

.2

(Reserved)

.3 Requirements for Obtaining Evidence

.~~3~~1 Require Only Evidence of Eligibility

The county shall require only evidence necessary to determine past or present eligibility for the amount or delivery of aid.

.~~3~~2 Notice of Required Evidence

Within ten calendar days of application, the county shall provide written notice to the applicant of the required evidence and examples of alternative evidence, if any, to determine eligibility.

.~~3~~21

The ten day requirement shall be waived if the applicant fails to attend the scheduled interview or if the applicant requests that the interview be delayed beyond ten calendar days following application.

.33 Assist the Applicant in
Obtaining Evidence

.331 Good Faith Effort

The county shall assist the applicant in obtaining evidence of eligibility from a third party when the county has determined that the applicant has made a good faith effort to obtain the evidence and the third party fails or refuses to provide the evidence.

(a)

A "good faith effort" means that the applicant has attempted to comply within the limits of his/her resources.

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(b)

An applicant needs evidence showing the amount in a bank account to complete the AFDC application. The applicant lacks the evidence. The applicant goes to the bank and discovers that the bank will charge a fee to provide the applicant with the evidence. The applicant has no money to pay the fee. The applicant returns to the county and asks that the county help get the evidence. The applicant has made a good faith effort to obtain the evidence.

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.332 Third Party Fees

If necessary, the county shall pay a third party fee to obtain existing evidence of eligibility on behalf of the applicant.

.333 Notice Requirement

The county shall notify the applicant, in writing, of the requirements of Section 40-126.33 at the time that such evidence is requested.

.334 Document Failure to
Make Good Faith
Effort

The county shall document an applicant's failure to make a good faith effort in obtaining necessary evidence of eligibility in the case file.

.34 Cooperation in Providing
Evidence of Eligibility

The county shall not deny an application for failure to provide evidence of eligibility if the county has determined that the applicant is continuing to cooperate by attempting to comply in obtaining necessary evidence.

.341 Denial for Failure
to Cooperate in
Providing Evidence
of Eligibility

A denial due to failure to cooperate shall be made when a presumption of noncooperation has been established by the county but an act of refusal has not occurred.

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(a)

An applicant owns property which may cause the family to exceed the AFDC property limits. The applicant is told that evidence of the value of the property will be required to establish eligibility for aid. The applicant states that he/she must obtain the needed information from another state. The applicant is given an appointment in two weeks at which time he/she is expected to have the needed evidence. The applicant misses the appointment and does not call. The next day the applicant calls to say that he/she will be in on the following Wednesday. On Wednesday the applicant fails to show-up or call. On Thursday the eligibility worker sends a letter specifying the evidence required and allows the applicant ten days to provide the evidence. The applicant fails to respond to the letter by the tenth day. The application is denied based on failure to cooperate and the provisions of Sections 40-126.341 and .342 would apply.

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.342 Rescind Denial

The county shall rescind a denial and grant aid if the applicant is otherwise eligible based on the original application when:

(a)

The denial is based solely on the applicant's failure to cooperate in providing evidence of eligibility; and

(b)

The county receives the needed evidence within 30 calendar days of the date of denial.

.343 Notice of Action

When the county denies an application based on failure to cooperate in providing needed evidence of eligibility, the notice of action must advise the applicant of his/her rights to submit evidence within 30 calendar days of the date of denial for the denial to be rescinded.

.344 Failure Versus
Refusal to
Cooperate

The provisions of Sections 40-126.341 and .342 shall not apply to applications which are denied based on the applicants refusal to cooperate pursuant to Section 40-157.3.

(a)

A denial based on refusal to cooperate shall only be made as the result of the applicant's active refusal either orally or in writing to cooperate in the investigation of eligibility.

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Example

(b)

An applicant owns property which may cause the family to exceed the AFDC property limits. The applicant is told that evidence of the value of the property will be required to establish eligibility for aid. The applicant states that the value of the property is irrelevant to his current need and states that he will not provide any additional information. The application is denied due to refusal and the provisions of Sections 40-126.341 and .342 would not apply.

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.35 Retrieve Case File

The county shall retrieve and examine those existing case files which are in the possession of the county or its agents, in a timely manner, to determine if needed evidence of eligibility is already in the possession of the county when:

.351 Within One Year

An applicant applies within one year of the effective date of discontinuance of aid, and

.352 Reasons

The applicant is unable to provide the needed evidence of eligibility due to one of the following:

(a)

The applicant does not have easy access to the needed evidence; or

(b)

There is a cost associated with obtaining the evidence; or

(c)

The time needed to obtain the evidence would delay the application.

.36 Evidence Not in Case File

The county shall not be required to examine the existing case file if it would be unreasonable for the evidence to be in the possession of the county because the circumstances for which the verification is needed did not exist during the period the applicant previously received aid.

.361

This evidence includes, but is not limited to, verification of circumstances which can change such as earnings and bank accounts, and evidence of eligibility relating to an individual not previously in the assistance unit.

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.362 Example:

A family was discontinued from aid in November. In January a second child is born. The family reapplies for aid the following May. It would be unreasonable to expect the birth certificate of the second child who was born after the family was last on aid to be in the possession of the county.

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.37 Notice Requirements

At the time an applicant described in Sections 40-125.93 and 40-126.35 applies for aid, the county shall inform the applicant in writing of the requirements of Sections 40-125.93, 40-126.35, and 40-126.36.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10554 and 11275, Welfare and Institutions Code.

Amend Section 40-171.22 to read:

40-171 ACTION ON APPLICATIONS, INTERPROGRAM TRANSFERS AND INTRAPROGRAM STATUS CHANGES (Continued) 40-171

.2 Actions -- General (Continued)

.22 Application or Request for Restoration Denied

.221 County action shall be taken to deny aid if:
(Continued)

(i) Failure to cooperate in providing evidence of eligibility in accordance with Section 40-126.343(b).

(j) Refusal to cooperate in accordance with Section 40-105.1. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11275, Welfare and Institutions Code.

Amend Section 44-207.113 to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.1 General (Continued)

.11 Minimum Basic Standard
of Adequate Care (MBSAC) (Continued)

.113

The amount of 185% of the MBSAC shall be computed by multiplying the appropriate MBSAC amount by a factor of 1.85 and if the product does not end in a whole dollar amount, ~~a remainder of 50 cents or more shall be rounded off to the next whole dollar and a remainder of 49 cents or less shall be disregarded~~ the amount shall be rounded to the next lowest dollar.

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(a) Effective ~~July~~ August 1, 19891, the amount of 185 percent of the MBSAC shall be as follows:

Size of FBU	185% of Minimum Basic Standard of Adequate Care
1	\$ 63 <u>1</u> 0
2	\$1,036
3	\$1,28 <u>4</u> 3
4	\$1,524
5	\$1,739
6	\$1,955
7	\$2,146
8	\$2,340
9	\$2,536
10	\$2,75 <u>4</u>

HANDBOOK ENDS HERE

.12 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11017, Welfare and Institutions Code.

Amend Sections 44-315.412, .421, and .424 to read:

44-315 AMOUNT OF AID (Continued)

44-315

.4 Determining Amount of
Grant -- AFDC-FG/U

.41

Basic Grant: The amount of the basic grant shall be calculated as follows: (Continued)

.412

Round to the next lower nearest dollar the net nonexempt income from the budget month (Section 44-100), including in-kind income/. ~~With amounts of 50 cents or more rounded to the next dollar figure/~~ (Continued)

.42

Special Needs: The amount of the Special Needs shall be calculated as follows:

.421

Round to the next lower nearest dollar the amount of recurring special needs (see Section 44-211/3) the Assistance Unit (FAU) is eligible to receive. ~~Amounts ending in 50 cents should be rounded to the next higher dollar figure/~~

.422

(Continued)

.423

(Continued)

.424

Round to the next lower nearest dollar the amount of nonrecurring special needs (Section 44-211/3) the FAU is eligible to receive. ~~Amounts ending in 50 cents should be rounded to the next higher dollar figure/~~

.425

(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11017, Welfare and Institutions Code.

Amend Section 44-352.411(b)(1) to read:

44-352 OVERPAYMENT RECOUPMENT (Continued)

44-352

.4 (Continued)

.41 Grant Adjustment:

.411 (Continued)

(b) Determine the required need allowance

(1) Multiply the Maximum Aid Payment plus any special needs for the ~~FPAU~~ by .90 and round the amount to the next lower ~~nearest~~ dollar, unless the overpayment was caused by agency error. If the overpayment was caused by agency error multiply the MAP plus any special needs for the ~~FPAU~~ by .95 and round to the next lower ~~nearest~~ dollar.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11017, Welfare and Institutions Code.

Correct Handbook Section 44-402.1 to read:

44-402 COMPUTATION OF A REDUCED INCOME SUPPLEMENTAL PAYMENT

44-402

.1 (Continued)

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80% of MAP Level:
~~July~~ August 1, 1989 ~~through June 30, 1990~~

Size of AU	80% of Maximum Aid Payment
1	\$27 7 <u>2</u>
2	448
3	555
4	659
5	752
6	84 8 <u>5</u>
7	928
8	1012
9	109 7 <u>2</u>
10 or more	1174

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.11 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11017, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

JUN 10 1991

At 4:13 o'clock P. M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: SOCIAL SERVICES

OAL File No: 91-0530-01

[Signature]
JOHN D. SMITH
Deputy Director

06/10/91